

IN THE SUPREME COURT OF THE STATE OF ALASKA

In the Matter of the 2021)	
Redistricting Cases)	Supreme Court No. S-18419
(Alaska Redistricting Board/Girdwood)	
Plaintiffs/East Anchorage Plaintiffs))	Trial Court Case No. 3AN-21-08869CI
)	
)	
)	

GIRDWOOD PARTIES' EXCERPT OF RECORD
VOL. 1 OF 1

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the

2021 REDISTRICTING PLAN.

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Case No. 3AN-21-08869CI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Superior Court Judge Thomas Matthews

2.15.2022

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In the Matter of the)
2021 REDISTRICTING PLAN.) Case No. 3AN-21-08869CI
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I. INTRODUCTION

Here, four of the five challengers argue the Board failed to properly draw the house district map. The fifth challenger alleges the Senate district map does not comply with the law. For the various different reasons discussed below, this Court concludes the Board did not follow the constitutional process when it drew the Senate map, and one of the

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challenged house districts. The plan of reapportionment should be remanded to the Board to prepare a new plan which complies with this Order.

II. HISTORY OF LEGISLATIVE REAPPORTIONMENT

In accordance with Article VI of the Alaska Constitution, the Alaska Redistricting Board (the “Board”) is required to reapportion Alaska’s House of Representatives and the Senate immediately following the official reporting of each decennial census of the United States. Under the current framework of the Alaska Constitution², the Board consists of five members, two of whom are appointed by the Governor, one of whom is appointed by the Speaker of the House of Representatives, one of whom is appointed by the Senate President, and one of whom is appointed by the Chief Justice of the Alaska Supreme Court. At least one Board member must be a resident of each of the four judicial districts.

As originally written in Alaska’s constitution, the task of redistricting the legislature was delegated to the Governor of Alaska.³ In 1964, the U.S. Supreme Court issued its seminal decision in *Reynolds v. Sims*,⁴ holding that the Equal Protection Clause of the U.S. Constitution requires that the seats in both houses of a bicameral legislature be apportioned on a population basis.⁵ The *Reynolds* decision rendered Alaska’s original designation of geographic senate districts invalid and set legislative redistricting in Alaska on its way.⁶

From 1966 through the 1990s, the Governor of Alaska conducted redistricting.⁷ Litigation ensued each redistricting cycle.⁸ In 1998, Alaska voters ratified a constitutional

² Alaska Const. art. VI, § 8.

³ See *Wade v. Nolan*, 414 P.2d 689, 690 n. 2 (Alaska 1966) (quoting Article XIV, § 2 of the Alaska Constitution as ratified by Alaska voters in 1956 and approved by the U.S. Congress in the Alaska Statehood Act of 1958). President Eisenhower signed the official proclamation admitting Alaska as the 49th state on January 3, 1959.

⁴ *Reynolds v. Sims*, 377 U.S. 533 (1964).

⁵ *Wade v. Nolan*, 414 P.2d at 690.

⁶ *Wade v. Nolan*, 414 P.2d at 690.

⁷ See *Hickel v. Southeast Conference*, 846 P.2d 38, 42 (Alaska 1992) (“Under the Alaska Constitution, the governor has the power and duty to reapportion the state legislature every ten years.”).

⁸ See *Wade v. Nolan*, 414 P.2d 689 (Alaska 1966); *Egan v. Hammond*, 502 P.2d 856 (Alaska 1972); *Groh v. Egan*, 526 P.2d 863 (Alaska 1974); *Carpenter v. Hammond*, 667 P.2d 1204 (Alaska 1983); *Kenai Peninsula Borough v. State*, 743 P.2d 1352 (Alaska 1987); *Hickel v. Southeast Conference*, 846 P.2d 38 (Alaska 1992); *In re 2001 Redistricting Cases*, 44 P.3d 141 (Alaska 2002); *In re 2001 Redistricting Cases*,

amendment to Article VI of the Alaska Constitution that overhauled the redistricting process.⁹ The amendment placed the duty of reapportioning the Alaska Legislature after each U.S. Census with the independent Alaska Redistricting Board.¹⁰ Section 8(a) of Article VI states that the Board is comprised of “five members, all of whom shall be residents of the state for at least one year and none whom may be public employees or officials at the time of or during the tenure of appointment. Appointments shall be made without regard to political affiliation.”¹¹

The Governor appoints two members of the board. The presiding officers of the House and Senate each appoint one member. The fifth member is appointed by the Chief Justice of the Supreme Court. The appointments are made in the order just listed, and one board member must be a resident of each of the four judicial districts in the State.¹²

III. HISTORY OF THE BOARD'S WORK

A. Makeup of the Board

Governor Dunleavy appointed Budd Simpson of Douglas and Bethany Marcum of Anchorage to the Alaska Redistricting Board.¹³ Senate President Cathy Giessel appointed John Binkley of Fairbanks to the Board.¹⁴ House Speaker Bryce Edgmon appointed Nicole Borromeo of Anchorage to the Board.¹⁵ Chief Justice Joel Bolger appointed Melanie Bahnke of Nome to the Board.¹⁶

In August 2020, the Board elected John Binkley as the chair of the Board.¹⁷ Binkley

47 P.3d 1089 (Alaska 2002); *In re 2011 Redistricting Cases*, 274 P.3d 466 (Alaska 2012); *In re 2011 Redistricting Cases*, 294 P.3d 1032 (Alaska 2012).

⁹See *In re 2001 Redistricting Cases*, 2002 WL 34119573, *1 n. 1 (Alaska Sup. Ct. Feb. 1, 2002) (“An Amendment to Article VI of the Alaska Constitution, effective January 3, 1999 (the “1998 Amendment”), changed the composition and responsibilities of the Board.”); see also Gordon S. Harrison, *The Aftermath of In re 2001 Redistricting Cases: The Need for a New Constitutional Scheme for Legislative Redistricting in Alaska*, 23 Alaska L. Rev. 51, 60-63 (2006).

¹⁰ *In re 2011 Redistricting Cases*, 274 P.2d 466 n.2 (Alaska 2012).

¹¹ Alaska Const. art. VI, § 8(a).

¹² Alaska Const. art. VI, § 8(b).

¹³ ARB000005; Aff. of Budd Simpson ¶ 7, dated Jan. 12, 2022.

¹⁴ ARB000005.

¹⁵ ARB000005.

¹⁶ ARB000005.

¹⁷ Binkley Aff. ¶ 12.

was born and raised in Fairbanks, but ran a tug and barge business on the Lower Yukon in St. Mary's, Alaska for a time.¹⁸ Binkley lived in Bethel from 1978 through 1990, and was elected to represent a Bethel-centered house district and then a senate district.¹⁹ In 1990, Binkley moved back to Fairbanks.

Member Melanie Bahnke was born in Nome and raised in Savoonga on St. Lawrence Island.²⁰ She has lived in Nome since 1995, and among other things, is President of Kawerak, Inc., a nonprofit corporation that the Bering Straits Native Association organized after passage of the Alaska Native Claims Settlement Act ("ANCSA").²¹ St. Lawrence Island Yupik is Ms. Bahnke's first language; she is also fluent in English.²²

Member Nicole Borromeo was born and raised in McGrath.²³ She is currently Executive Vice President and General Counsel of the Alaska Federation of Natives.²⁴ She also serves as the chairman of the board of directors of MTNT, Limited, the ANCSA Village Corporation for McGrath, Takotna, Nikolai, and Telida.²⁵

Member Bethany Marcum has been an Anchorage resident for 26 years.²⁶ She has served in the military for 20 years, has lived in various neighborhoods throughout the Municipality of Anchorage, and has traveled regularly in Alaska for work and military exercises.²⁷ Marcum has served in the Air National Guard since 2008, originally stationed at Kulis Air National Guard Base and now at Joint Base Elmendorf Richardson ("JBER").²⁸

Member Budd Simpson has lived in the City and Borough of Juneau and practiced law in Alaska since 1977.²⁹ Through his law practice, Simpson has traveled regularly

¹⁸ Binkley Aff. ¶ 4.

¹⁹ Binkley Aff. ¶¶ 4-5.

²⁰ Bahnke Aff. ¶ 2.

²¹ Bahnke Aff. ¶ 4.

²² Bahnke Aff. ¶ 5.

²³ Borromeo Aff. ¶ 2.

²⁴ Borromeo Aff. ¶¶ 3-4.

²⁵ Borromeo Aff. ¶ 5.

²⁶ Marcum Aff. ¶ 2.

²⁷ Marcum Aff. ¶ 3.

²⁸ Marcum Aff. ¶ 4.

²⁹ Simpson Aff. ¶¶ 2-3.

throughout Southeast Alaska.³⁰ Since the late 1970s, Simpson and his wife have owned property in Haines, Alaska. Simpson served as the City Attorney for the City and Borough of Haines for 15 years.³¹ He has also regularly represented Sealaska, the Regional Corporation for Southeast Alaska.³²

In December 2020, the Board hired Peter Torkelson as the Board's Executive Director and TJ Presley as the Deputy Director of the Board.³³ Torkelson had been working as a professional assistant to the Senate President's office since 2013.³⁴ Torkelson had a background and an interest in website design, and a college degree in criminal justice.³⁵ This was his first foray into redistricting.³⁶

B. Board Meetings

The Board held numerous meetings throughout its tenure. It began in September of 2020 with various organizational and training meetings. In general, the time from September, 2020 through July, 2021 was devoted to organizational work, procurement, training and planning for the hard work of the Board. Once the census data was received on August 12, 2021, the "clock" started for the 90-day sprint through the redistricting process.

September 10, 2020

On September 10, 2020, the Board held a meeting with all members present.³⁷ During this meeting, the Board discussed obtaining information technology and cellphone service for Board members.³⁸ Tim Banaszak, who was the Information Technology

³⁰ Simpson Aff. ¶ 3.

³¹ Simpson Aff. ¶ 3.

³² Feb. 3 Trial Tr. 1737:22-25; 1738:1-3; 1738:20-22.

³³ ARB000005.

³⁴ Aff. of Peter Torkelson ¶ 7, dated Jan. 12, 2022.

³⁵ Deposition of Peter Torkelson, January 15, 2022 at 27.

³⁶ Torkelson Depo. At 15, L10-12.

³⁷ ARB000118-ARB000120 (Board Meeting Minutes).

³⁸ ARB000118-ARB000119.

Manager for the Legislative Affairs Agency, attended the meeting to assist.³⁹ The Board selected vendors for information technology service and internet service.⁴⁰ The Board also voted to provide cellphone service for each member.⁴¹ The Board discussed the general staff and legal counsel it would require.⁴²

December 3, 2020

On December 3, 2020, the Board held a meeting with all members present.⁴³ JC Kestel, a procurement officer with the Legislative Affairs Agency, and Tim Banaszak, the Information Technology Manager for the Legislative Affairs Agency, also attended the meeting.⁴⁴ Mr. Banaszak reported that the Board member laptops were configured with Microsoft Office and redistricting software, and that individual email accounts had been created for each member.⁴⁵ Chair Binkley advised all members they were registered for a National Conference of State Legislatures (“NCSL”) that was being held virtually in January 2021, and encouraged all members to attend.⁴⁶ The Board entered executive session to discuss the applicants for the Executive Director position.⁴⁷ It exited executive session and adjourned the meeting.⁴⁸

December 10, 2020

On December 10, 2020, the Board held a meeting with all members present.⁴⁹ The Board entered executive session and interviewed applicants for the Executive Director position.⁵⁰ The Board exited executive session and adjourned the meeting.⁵¹

³⁹ ARB000119.

⁴⁰ ARB000119.

⁴¹ ARB000119.

⁴² ARB000119.

⁴³ ARB000121-ARB000123 (Board Meeting Minutes).

⁴⁴ ARB000121.

⁴⁵ ARB000121.

⁴⁶ ARB000122.

⁴⁷ ARB000122.

⁴⁸ ARB000122-ARB000123.

⁴⁹ ARB000124-ARB000125 (Board Meeting Minutes).

⁵⁰ ARB000124-ARB000125.

⁵¹ ARB000124-ARB000125.

December 12, 2020

On December 12, 2020, the Board held a meeting with all members present.⁵² The Board summarized that it spent a full day on December 10 interviewing candidates for the Executive Director position, and unanimously approved the selection of Peter Torkelson for the position.⁵³

December 19, 2020

On December 19, 2020, the Board held a meeting with all members and Executive Director Torkelson present.⁵⁴ The Board discussed a draft organizational chart, budget, hiring timelines and personnel related matters.⁵⁵

December 29, 2020

On December 29, 2020, the Board held a meeting with all members, Executive Director Torkelson, and Deputy Director TJ Presley present.⁵⁶ The Board discussed its status as an independent entity from the legislative and executive branches of the state government and its ability to adopt either the legislative or administrative procurement codes.⁵⁷ Ultimately, the Board unanimously voted to adopt the legislative procurement code, but with changes to the terms that reflected that the Board, not an agency, was using the code and to restrict bid protests to only bidders.⁵⁸ The Board then discussed the process to solicit proposals from firms to serve as the Board's legal counsel, and voted to begin drafting the language for the Board's request for information ("RFI") for legal counsel.⁵⁹

January 8, 2021

On January 8, 2021, the Board held a meeting with all members, the executive

⁵² ARB000126-ARB000127 (Board Meeting Minutes).

⁵³ ARB000126.

⁵⁴ ARB000128-ARB000130 (Board Meeting Minutes).

⁵⁵ ARB000128-ARB000130 (Board Meeting Minutes).

⁵⁶ ARB000131-ARB000133 (Board Meeting Minutes).

⁵⁷ ARB000131-ARB000132.

⁵⁸ ARB000132.

⁵⁹ ARB000132.

director, and deputy director present.⁶⁰ The Board set a January 29 deadline for firms to respond to its RFI for legal counsel and finalized the wording of the RFI.⁶¹ The Board also adopted its procurement code that had been derived from the legislative procurement code with some changes.⁶²

January 26, 2021

On January 26, 2021, the Board held a meeting with all members, the executive director, and deputy director present.⁶³ The Board considered and adopted the following policies: (1) Public Meeting and Notice Requirement Policy; (2) Public Records Policy; (3) Board Member Compensation Policy; and (4) Board Member and Staff Per Diem Policy.⁶⁴ Torkelson also reported that the Board's webpage was scheduled to go live in the next two weeks, and would serve as a single point of access for redistricting maps.⁶⁵

February 26, 2021

On February 26, 2021, the Board held a meeting with all members, the executive director and deputy director present.⁶⁶ Torkelson updated the Board on his communications with the U.S. Census Bureau that the 2020 Census results would be provided by September 30, 2021, at the latest.⁶⁷ The Board explored options to proactively solicit redistricting input from interest groups that historically participate in redistricting in Alaska, and decided that, to the extent practicable, meeting requests from interest groups would be routed through staff.⁶⁸ Torkelson further advised Board members of online software training available to them.⁶⁹ The Board entered executive

⁶⁰ ARB000134-ARB000135 (Board Meeting Minutes).

⁶¹ ARB000134-ARB000135.

⁶² ARB000135.

⁶³ ARB000136-ARB000138 (Board Meeting Minutes).

⁶⁴ ARB000137, ARB000420-ARB000426.

⁶⁵ ARB000138.

⁶⁶ ARB000139-ARB000142 (Board Meeting Minutes).

⁶⁷ ARB000139.

⁶⁸ ARB000141.

⁶⁹ ARB000141.

session to interview a respondent of the legal services RFI.⁷⁰ After completing the interview, the Board exited executive session and adjourned the meeting.⁷¹

March 2, 2021

On March 2, 2021, the Board held a meeting with all members, the executive director, and deputy director present.⁷² Torkelson shared informal advice from the legislative attorney that executive session was an appropriate forum to interview potential legal counsel.⁷³ The Board entered executive session and interviewed additional legal counsel applicants.⁷⁴ After the interviews, the Board exited executive session and adjourned the meeting.⁷⁵

March 6, 2021

On March 6, 2021, the Board held a meeting with all members, the executive director, and deputy director present.⁷⁶ Torkelson summarized the Board's RFI, interview, and selection process for legal counsel.⁷⁷ Torkelson advised that the Board had selected two respondents to interview and had completed both interviews.⁷⁸ The Board entered executive session to discuss the selection of one of the firms, and upon exiting executive session unanimously voted to select Schwabe, Williamson & Wyatt.⁷⁹

April 16, 2021

On April 16, 2021, the Board held a meeting with all members except member Bahnke present.⁸⁰ The executive director, deputy director, and Matt Singer of Schwabe, Williamson & Wyatt were also present.⁸¹ Torkelson reported that counsel had advised

⁷⁰ ARB000141.

⁷¹ ARB000142.

⁷² ARB000143-ARB000144 (Board Meeting Minutes).

⁷³ ARB000143.

⁷⁴ ARB000144.

⁷⁵ ARB000144.

⁷⁶ ARB000145-ARB000147 (Board Meeting Minutes).

⁷⁷ ARB000145-ARB000146.

⁷⁸ ARB000146.

⁷⁹ ARB000146.

⁸⁰ ARB000148-ARB000149 (Board Meeting Minutes).

⁸¹ ARB000148.

the Board to secure a Voting Rights Act (“VRA”) consultant as soon as possible, and a draft RFI was presented and approved by the Board with some modifications.⁸²

May 26, 2021

On May 26, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.⁸³ The Board took public testimony from former state senator Cathy Giessel, who thanked the Board for proactively seeking a VRA consultant.⁸⁴ The Board entered executive session to discuss the responses to its RFI for a VRA consultant.⁸⁵ After exiting the executive session, the Board unanimously moved to enter into a contract with Bruce Adelson as the Board’s VRA consultant.⁸⁶

June 28 – June 30, 2021

On June 28-30, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.⁸⁷ The Board immediately entered a three-day work session to receive in-person training on the Autobound Edge redistricting software with Fred Hejazi, the CEO of Autobound.⁸⁸

July 2021

In July, the Board attended the National Conference of State Legislatures “Ready to Redistrict” conference in Salt Lake City and received training on legal and procedural topics related to redistricting.⁸⁹

August 12, 2021 – Census Data

On August 12, 2021, the United States Bureau of the Census reported the results of the census to the State of Alaska.⁹⁰ The Census reported Alaska’s population to be

⁸² ARB000149.

⁸³ ARB000150-ARB000151 (Board Meeting Minutes).

⁸⁴ ARB000151.

⁸⁵ ARB000151.

⁸⁶ ARB000151.

⁸⁷ ARB000152.

⁸⁸ ARB000152.

⁸⁹ ARB000121-ARB000152 (Board Meeting Minutes).

⁹⁰ ARB000002.

733,391.⁹¹ The release of the U.S. Census Bureau's results obligated the Board to adopt a proposed plan(s) within 30 days of the August 12, 2021 release date.⁹²

August 23 – August 24, 2021

On August 23-24, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.⁹³ The Board revised its travel and per diem policy. It also adopted a public testimony policy to allow two (2) minutes per speaker. It then took public testimony on the redistricting process.⁹⁴ Among other testimony, Yarrow Silvers of Anchorage testified against the existing senate districts in East Anchorage that she felt improperly bisected East Anchorage, William Naneng of Hooper Bay advocated for Hooper Bay to be part of the Bethel house district, Doyon Limited President Aaron Schutt advocated for a unified interior district, and Senate Minority Leader Tom Begich urged the Board not to use Valdez to fill the under-population of the Matanuska-Susitna Borough.⁹⁵ The Board entered executive session to discuss legal issues, and upon re-entering public session, Torkelson noted that the Board was required to create at least one forty-district "draft" plan within 30 days of the release of the 2020 U.S. Census results on August 12, which would be no later than September 11, 2021.⁹⁶ The Board announced that third parties could submit their proposed redistricting plans by September 17, for the purpose of receiving public comment during the upcoming state-wide "road show," and the Board would provide them 30 minutes to present their proposals.⁹⁷ The Board then discussed how best to complete a draft plan⁹⁸ by September 11, and the Board recessed until the next morning.⁹⁹ The next day, the Board went over

⁹¹ ARB004350-ARB004351.

⁹² Board 2021 Proclamation of Redistricting, p. 1, ARB000002.

⁹³ ARB000153-ARB000158 (Board Meeting Minutes).

⁹⁴ ARB000154.

⁹⁵ ARB000154-ARB000155.

⁹⁶ ARB000155-ARB000156.

⁹⁷ ARB000156.

⁹⁸ The Board noted in its "workflow" discussion that legal issues arose during the last redistricting process when the board assigned different areas of the state to one individual member to draw a map and bring it back to the board for collective discussion. See ARB000156.

⁹⁹ ARB000157.

general principles of law regarding redistricting in public session and then began mapping Southeast Alaska together.¹⁰⁰

September 7–9, 2021

On September 7-9, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.¹⁰¹ The Board received public testimony at the outset of the meeting.¹⁰² The Board and staff then discussed the challenges they encountered when mapping after the last Board meeting, and entered executive session to receive legal advice from counsel.¹⁰³ Upon exiting executive session, legal counsel provided a summary of general redistricting law, including that the Alaska Supreme Court had indicated that areas within incorporated boroughs were, by definition, socio-economically integrated.¹⁰⁴ The Board members presented the draft maps they had been working on, and, upon request, took additional public testimony in the afternoon, including from Yarrow Silvers, who voiced concern that the Board had drawn a district that included a portion of East Anchorage with Eagle River.¹⁰⁵ The Board entered a work session for all of September 8 to draw maps.

On September 9, adopted Board Composite v.1 and Board Composite v.2. Both v.1 and v.2 were forty-district redistricting plans for the house districts.¹⁰⁶ Neither v.1 or v.2 contained proposed senate pairings.¹⁰⁷ The Board received written testimony submissions regarding v.1 and v.2 from September 9 forward.¹⁰⁸

September 11, 2021

September 11, 2021, marked the end of the 30-day period within which the Board was required to adopt its proposed plans. The Board did not meet on September 10 or

¹⁰⁰ ARB000158.

¹⁰¹ ARB000159-ARB000165 (Board Meeting Minutes).

¹⁰² ARB000160.

¹⁰³ ARB000160-ARB000161.

¹⁰⁴ ARB000161.

¹⁰⁵ ARB000161.

¹⁰⁶ ARB000164.

¹⁰⁷ ARB10708-ARB10765 (Board Composite v.1); ARB 10766-ARB10821 (Board Composite v.2).

¹⁰⁸ Torkelson Aff. ¶ 20; ARB001714-ARB004347 (public testimony, including September 9 submissions).

September 11. Thus, the only two plans developed and adopted within the 30-day period were Versions 1 and 2 (v.1 and v.2). Neither v.1 nor v.2 included proposed senate pairings. The Board did not meet again until September 17

September 17, 2021

On September 17, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.¹⁰⁹ The Board met for a total of six hours and 12 minutes to review the draft maps.¹¹⁰ The Board received two hours public testimony on v.1 and v.2 redistricting plans formally adopted at its prior meeting.¹¹¹ The following third-party groups then presented their maps: (1) Doyon Coalition,¹¹² (2) Alaska Democratic Party, (3) Alaskan for Fair and Equitable Redistricting (“AFFER”), (4) Alaskans for Fair Redistricting (“AFFR”), and (5) the Senate Minority Caucus.¹¹³ The Board took additional public testimony and advised the public that its next meeting would be on September 20, and after that meeting the public outreach phase of its work would begin.¹¹⁴

September 20, 2021

On September 20, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.¹¹⁵ The Board opened the meeting by taking public testimony.¹¹⁶ The Board then discussed the five (5) third-party plans, with the proponents of those plans providing information and answering questions.¹¹⁷ Torkelson then presented improvements the Board had made to v.1 and v.2 of its maps, and proposed that versions 3 and 4 be adopted in lieu of v.1 and v.2, respectively.¹¹⁸ The Board then voted to replace v.1 and v.2 with versions 3 and 4, respectively, and to

¹⁰⁹ ARB000166-ARB000174 (Board Meeting Minutes).

¹¹⁰ ARB000166 - ARB000174.

¹¹¹ ARB000167-ARB000170; Board 2021 Process Report, p. 3 (Nov. 20, 2021), ARB000007.

¹¹² The Doyon Coalition was a partnership of Doyon, Ltd.; Tanana Chiefs Conference; Sealaska Corporation; Ahtna, Incorporated; and Fairbanks Native Association. See ARB000170.

¹¹³ ARB000170-ARB000173.

¹¹⁴ ARB000173-ARB000174.

¹¹⁵ ARB000175-ARB000192.

¹¹⁶ ARB000176.

¹¹⁷ ARB000176-ARB000186.

¹¹⁸ ARB000186-ARB000190.

adopt¹¹⁹ the plans submitted by the Senate Minority Caucus, the Doyon Coalition, AFFER, and AFFR as proposed plans to take on its outreach tour.¹²⁰ Each of the third-party plans included proposed senate pairings.¹²¹

It was at this meeting that the Board contends it adopted proposed senate pairings through the AFFER proposed plan.¹²² However, this was never announced to the public and members of the public were not permitted to testify about senate pairings. In its announcement regarding the adopted plans, the Board referenced only the map components of each plan — the announcement included a quotation from Member Nicole Borromeo, which stated “[w]e look forward to hearing feedback from Alaskans on our new draft maps, as well as the four adopted third-party maps, as we present them in public meetings in communities across the state.”¹²³ The announcement was devoid of any mention of senate pairings, televising to the public that no proposed senate pairings had been adopted.

The Board voted against adopting the Alaska Democratic Party's plan.¹²⁴ The Board took additional public testimony¹²⁵ and then advised it would be on its public outreach tour until the end of October. An email address was provided for anyone desiring the Board to come to their community to submit such a request.¹²⁶

¹¹⁹ It is customary for the Alaska Redistricting Board to adopt third-party plans as proposed maps for the purposes of the public outreach tour. Jan. 31, 2022 Trial Tr. 1416:13-20 (Ruedrich Cross).

¹²⁰ ARB000190-ARB000192, ARB010360 at 217:19-24 (September 20, 2021 board meeting, adopting four third-party plans to take on the road for public comment).

¹²¹ ARB001233-ARB001293 (AFFER); ARB001295-ARB001340 (AFFR); ARB001436-ARB001481 (Doyon Coalition); ARB001483-ARB001528 (Senate Minority); ARB001189-ARB001191 (minutes of September 20, 2021 ARB meeting).

¹²² The AFFER proposed plan adopted by the Board on September 20, 2021 included a senate pairing of Muldoon with Eagle River in proposed senate district J. However, that Senate pairing carved out the majority of the population of Eagle River and included a significant portion of North Muldoon. And the AFFER proposed plan does not resemble any proposal discussed by the Board during its senate pairing proceedings on November 8-10, 2021. ARB001236-ARB001237, ARB001250. Third Party Proposed Plans, ARB001388-ARB001424.

¹²³ See ARB00063071 (“Alaska Redistricting Board Approves Proposed Redistricting Plans” press release).

¹²⁴ ARB000191. On that same day, the Board unanimously approved the purchase of items in the managed services proposal and permitted each Board member to work directly with JC Kestel, Procurement Officer of Legislative Affairs Agency, to obtain cell phone service. September 10, 2021 Board Meeting Minutes; ARB000119-ARB000120.

¹²⁵ ARB010361-ARB010369 at 218:15-225:17 (public testimony at September 20, 2021 board meeting after adoption of third-party plans).

¹²⁶ ARB000192.

September 27 – November 1, 2021 (“The Road Show”)

After adoption of all six proposed plans, and between September 27 and November 1, 2021, the Board held public hearings throughout Alaska.¹²⁷ On September 30, the Board held a hearing in Valdez, one of its earliest stops,¹²⁸ during which large printouts of all the adopted proposed maps were hung on the walls and citizens were permitted to share their thoughts with the Board.¹²⁹ Numerous residents of Valdez, including Nathan Duval and Sheri Pierce, attended the meeting, reviewed the maps, and shared their views with the Board.¹³⁰ The Board also held hearings in Palmer, Wasilla, Anchorage, and Bethel, among many other locations, and it held a Skagway public hearing using the Zoom internet platform.¹³¹ In addition to the in-person hearings in communities across the state, the Board also held two additional telephonic public hearings for statewide participants on October 20 and October 30.¹³² The Board held

¹²⁷ ARB004415-ARB004417 (Board website showing list of all public hearings); ARB001699-ARB001704 (Torkelson presentation summarizing public hearing itinerary and showing representative photographs of various meetings); Jan. 25, 2022 Trial Tr. 475:12-16 (Duval cross, Q: “And there were six different plans that were presented in Valdez at that meeting on September 30th; is that right?” A: “I don’t recall the exact number but six sounds correct, yes.”); 475:23-476:11 (Duval cross, admitting Board proposed v.4 map that paired Valdez with Mat-Su was on the wall at the September 30 Valdez hearing, along with the other proposed maps); Jan. 25, 2022 Trial Tr. 485:17-21 (Duval redirect, Q: “You’ve been asked several questions about the maps on the wall. Is it your understanding that the maps on the wall that were posted on Valdez were 3 and 4 and four third-party maps?” A: “Yes.”); Jan. 27, 2022 Trial Tr. 1055:15-25 (Torkelson cross, Q: “In proposed version v4, Valdez is in – placed with the same communities that it was in the final map and with the eastern Mat-Su; is that right?” A: “Yes. From recollection, board-adopted v4 contains a Valdez/Mat-Su district that’s very similar to the final adopted plan.” Q: “And the board adopted v4 for public comment on September 20th; is that correct?” A: “Yes, sir, that’s correct.” Q: “V4 was on the wall at the Valdez tour stop?” A: “Yes. It was on the wall at every stop.”).

¹²⁸ Jan. 26, 2022 Trial Tr. 796:8-14 (Borromeo cross); Jan. 27, 2022 Trial Tr. 1047:2-4 (Torkelson cross: “For example, I think it’s been noted that Member Borromeo really wanted to get to Valdez early and hear from them.”).

¹²⁹ Jan. 25, 2022 Trial Tr. 476:12-478:15 (Duval cross describing September 30 meetings, viewable maps, and his participation); 518:6-10, 519:7-19 (Pierce confirming Board proposed v.4 was on display at September 30 hearing in Valdez and on her conversations with each member of the Board one-on-one).

¹³⁰ Jan. 25, 2022 Trial Tr. 476:12-478:15 (Duval cross); 518:6-10, 519:7-19 (Pierce cross).

¹³¹ ARB004377, ARB004416-ARB004417.

¹³² ARB004415-ARB004417.

public hearings with all six proposed plans available for comment.¹³³ Public testimony during these hearings included testimony regarding senate district pairings.¹³⁴

November 2, 2021

After the road show was concluded, the Board reconvened in Anchorage to finalize its house district map. On November 2, 2021, the Board held a meeting with all members, the executive director, deputy director and legal counsel present.¹³⁵ The Board met for a total of six hours and 55 minutes.¹³⁶ Of that total time, the Board spent two hours and 23 minutes in executive session.¹³⁷ In addition, the Board spent two hours and 48 minutes in a mapping work session.¹³⁸

The Board took public comment wherein residents generally voiced support for a particular proposed map.¹³⁹ Torkelson provided a summary of the public hearing tour and reported that public hearings had been held in the following communities: Juneau, Haines, Sitka, Valdez, Anchorage (2 hearings), Kotzebue, Ketchikan, Petersburg, Wrangell, Nome, Seward, Homer, Kenai, Kodiak, Delta Junction, Fairbanks, Bethel,

¹³³ Jan. 25, 2022 Trial Tr. 485:17-21 (Duval redirect: Q: "You've been asked several questions about the maps on the wall. Is it your understanding that the maps on the wall that were posted on Valdez were 3 and 4 and four third-party maps?" A: "Yes."); Jan. 27, 2022 Trial Tr. 977:14-17 (Bahnke cross Q: "And at that meeting in Nome, the board's version 3 and 4 and the other third-party proposed maps, those were on the wall, right?" A: "Yes."); Jan. 27, 2022 Trial Tr. 979:20-25 (Bahnke cross: A: "I believe the format that we were following was we'd give kind of a presentation, explain the process of redistricting, what it is, share information about what was on the walls, and then we would go into a process where we kind of mingled with people."); Jan. 27, 2022 Trial Tr. 1032-12-1033:11 (Simpson cross, Q: "[I]f I'm understanding you correctly, that's board version 3 and 4 and various third-party maps, is it correct that the board adopted them for the purposes of getting public comment on those maps?" A: "Yes, that's exactly why we adopted several versions, yes." Q: "So does it matter whether the board received public comment on those maps before it adopted them for the purposes of public comment?" A: "No. The purpose of adopting them was to encourage a variety of public comment and to provide a number of options that people could look at and sort of pick and choose their way through what they liked or didn't like about any of them." Q: Did the board get public comment on those maps?" A: "Absolutely. At the public meetings around the state, the typical process was that either – either board members or staff working together would physically pin the maps up to the walls of the various meeting venues, and people could come into the room and walk around the perimeter looking at different maps. And the maps were labeled as to their source, so there was a board version 3 and 4, there was AFFR, AFFER, Doyon, and so forth.").

¹³⁴ ARB006500-ARB006600.

¹³⁵ ARB000193-ARB000200 (Board Meeting Minutes).

¹³⁶ ARB000193; ARB000199.

¹³⁷ ARB000196.

¹³⁸ ARB000199.

¹³⁹ ARB00194-00195 (Board Meeting Minutes).

Dillingham, Palmer, Wasilla, Cordova, and Utqiagvik.¹⁴⁰ The Board took additional public testimony and then entered a work session beginning on the afternoon of November 2 to continue its work on a final redistricting plan.¹⁴¹

November 3, 2021

On November 3, 2021, the Board held a meeting with all members, the executive director, deputy director and legal counsel present.¹⁴² The Board met for a total of seven hours, most of which took the form of a mapping work session.¹⁴³

November 4, 2021

On November 4, 2021, the Board held a meeting with all members, the executive director, deputy director and legal counsel present.¹⁴⁴ Once again, The Board met for a total of seven hours, most of which took the form of a mapping work session.¹⁴⁵

November 5, 2021 – House Map Finalized

On November 5, 2021, the Board held a meeting with all members, the executive director, deputy director and legal counsel present.¹⁴⁶ The Board started with a work session, and then entered into the first executive session for one hour and 35 minutes.¹⁴⁷ This was followed by a mapping work session that lasted one hour and 46 minutes.¹⁴⁸ During this mapping session, Member Marcum discussed her extensive attempts to avoid putting Valdez in a house district with the Mat-Su.¹⁴⁹

The Board then took extensive public testimony from individuals, including Yarrow Silvers and Felisa Wilson.¹⁵⁰ Following public testimony, the Board entered into a second

¹⁴⁰ ARB000198.

¹⁴¹ ARB000199.

¹⁴² ARB000193-ARB000200 (Board Meeting Minutes).

¹⁴³ ARB000200.

¹⁴⁴ ARB000193-ARB000200 (Board Meeting Minutes).

¹⁴⁵ ARB000200.

¹⁴⁶ ARB000201-ARB000209 (Board Meeting Minutes).

¹⁴⁷ ARB000201-ARB000202 (Board Meeting Minutes).

¹⁴⁸ ARB000202.

¹⁴⁹ ARB007755-ARB007745 (Board Meeting Transcript).

¹⁵⁰ ARB000202-ARB000208.

executive session which lasted 55 minutes.¹⁵¹ The Board thus met in executive session for a total of two and one-half hours.

Member Simpson moved the Board to adopt the redistricting map labeled “Board Consensus v.7” as the Board’s Final Map of the forty (40) house districts, with the allowance for staff to make minor changes accompanied by a report for the Board to review.¹⁵² The Board voted 4-1, with Member Marcum voting no, to adopt Board Consensus v.7 as the Final House Redistricting Plan.¹⁵³

November 8, 2021 – Senate Pairings Begin

On November 8, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.¹⁵⁴ Two days remained for the Board to finish its work pursuant to the constitutional deadline. Having finalized its house district map, the Board began its work regarding senate districts.¹⁵⁵ The Board began the meeting by taking two hours of public testimony regarding senate pairings.¹⁵⁶ The Board took public testimony from individuals and groups,¹⁵⁷ including Yarrow Silvers and Felisa Wilson, who advocated against pairing any house districts in the Municipality of Anchorage with Eagle River house districts.¹⁵⁸ During this meeting, the public voiced significant support for pairing then-numbered House districts 18 and 23, which represent North and South Muldoon, as well as House districts 22 and 24, which represent both Eagle River House districts.¹⁵⁹ This was the only public testimony that was ever taken regarding senate pairings.

After taking this testimony, the Board entered executive session “for legal and other purposes related to receiving legal counsel for the Board.”¹⁶⁰ The Board remained

¹⁵¹ ARB000208.

¹⁵² ARB000208.

¹⁵³ ARB000208-ARB000209.

¹⁵⁴ ARB000210-ARB000222 (Board Meeting Minutes).

¹⁵⁵ ARB000210.

¹⁵⁶ ARB000210-ARB000213 (Board Meeting Minutes).

¹⁵⁷ ARB006504-ARB006600.

¹⁵⁸ ARB000210-ARB000213.

¹⁵⁹ ARB000211-ARB000213 (Board Meeting Minutes).

¹⁶⁰ ARB000208.

in executive session for one hour, and then took a lunch break. After lunch, the Board entered a senate pairings work session at 1:21 p.m., which lasted until 5:00 p.m.¹⁶¹ Member Bahnke began the discussion of Anchorage pairings. She urged the board to pair the two Eagle River House districts together and the two Muldoon districts together because each of those pairs were socioeconomically integrated.¹⁶² After Ms. Bahnke finished, Ms. Marcum began a discussion of her suggested pairings. She had four different versions, and indicated she wanted to discuss all of them. However, she noted that all four of her proposals would split the two Eagle River districts to give Eagle River the opportunity for more representation.¹⁶³ The Board engaged in some public discussion regarding the pairing of the senate districts presented by Marcum, but did not take any public testimony after the work session started.¹⁶⁴

In review of a video recording of the work session, Marcum and Simpson can be seen and heard consulting and discussing an unredacted chart received from Randy Ruedrich ("Ruedrich") providing incumbent information for house districts statewide.¹⁶⁵

After the work session, Marcum moved for the Board to enter executive session "for legal advice with regard to the proposed Senate pairings". That executive session lasted until the Board recessed at 6:25 p.m.¹⁶⁶

November 9, 2021

On November 9, 2021, the Board held a meeting with all members, the executive director, deputy director, and legal counsel present.¹⁶⁷ The Board reconvened at 9:00 a.m. and continued its executive session.¹⁶⁸ The Board exited executive session at 10:30

¹⁶¹ ARB000208.

¹⁶² ARB006661-ARB006669 (November 8 board meeting transcript 164:20 – 173:1).

¹⁶³ ARB006671-ARB006675 (November 8 board meeting transcript 173:10-179:3)

¹⁶⁴ Marcum Aff. ¶ 17.

¹⁶⁵ Marcum Depo. at 206:21-218:25 (identifying Ex. 6005 as a chart received from Randy Ruedrich containing incumbent information and stating that she pulled up on her computer "the version that [she] had, which was the unredacted version" to show Simpson); video recording of November 8, 2021 Board Meeting at 2:52:00-2:55:30.

¹⁶⁶ ARB000208.

¹⁶⁷ ARB000210-ARB000222 (Board Meeting Minutes).

¹⁶⁸ ARB000215 (Board Meeting Minutes).

a.m.¹⁶⁹ The Board took no public testimony on November 9. Member Marcum immediately moved to accept Senate district K pairings for Anchorage which paired Eagle River and South Muldoon..¹⁷⁰ Simpson seconded the motion. Bahnke opposed the motion and requested a roll call vote. The motion passed 3-to-2, with Binkley, Marcum, and Simpson in favor, and Bahnke and Borromeo against.¹⁷¹ The Board voted to pair House Districts 21 and 22 to create Senate District K, and voted to pair House Districts 23 and 24 to create Senate District L.¹⁷² Both of these senate districts were consistent with proposals Member Marcum had made the prior day on the record,¹⁷³ but were quite different then the pairings proposed by Ms. Borromeo the day before.

Borromeo moved to reconsider the vote, with Bahnke seconding the motion. Borromeo expressed strong opposition against pairing East Anchorage district with the Eagle River districts, noting that “it opens the Board up to an unfortunate and very easily winnable argument [of] partisan gerrymandering.”¹⁷⁴ Borromeo noted that Marcum stated the previous day that this pairing “gives Eagle River the opportunity to ... have more representation, so they’re certainly not going to be disenfranchised by the process,”¹⁷⁵ and stated that the pairing “defies logic” and is contrary to “the sound, sound legal advice [the Board] got from counsel in executive session.”¹⁷⁶

However, before Borromeo had finished speaking, Chair Binkley and Marcum called the question.¹⁷⁷ The motion to reconsider the vote on adoption of the Anchorage senate pairings failed, with only Bahnke and Borromeo in favor of reconsideration.¹⁷⁸

Board staff then presented a report showing the percentage change of constituents for senate districts, so that the Board could decide which senate terms required truncation because the districts had substantially changed and thus must stand for election in 2022,

¹⁶⁹ ARB000215.

¹⁷⁰ ARB000215.

¹⁷¹ ARB000215.

¹⁷² ARB0007035-ARB007036.

¹⁷³ ARB006687 at 191:9-17; ARB006660-ARB006702 (discussing Anchorage Senate pairing options).

¹⁷⁴ ARB007040.

¹⁷⁵ ARB007041.

¹⁷⁶ ARB007041.

¹⁷⁷ ARB007043; Binkley Depo. 198:25-199:9.

¹⁷⁸ ARB000215.

regardless of when the seat had previously stood for election.¹⁷⁹ Bahnke suggested that, to avoid the appearance of partisanship or knowledge as to which seats would be truncated, the Board should flip a coin to make the decision. In contrast, Binkley suggested that there should be some rationale for the decision, and proposed alternating between the 2024 and 2022 cycles beginning with Senate District T. Simpson and Marcum supported Binkley's proposal, with Marcum specifically noting that the Board had not been presented with any incumbent information.¹⁸⁰ A vote was held, and Binkley's method passed. Borromeo then moved to determine the sequencing for truncations beginning with Senate District A going in the 2024 cycle, but the majority board members voted against this motion.¹⁸¹ Marcum then moved to alternate by numerical order with District A going in the 2022 cycle, and the motion passed. It appears that the majority board members had a preference for this configuration, despite their purported neutrality and ignorance of incumbents.¹⁸² After this decision, the Board entered a recess at 4:30 p.m.

November 10, 2021

On November 10, 2022, the Board issued its Final Plan and Proclamation of Redistricting.¹⁸³

Borromeo and Bahnke initially refused to sign the Proclamation as a direct result of the East Anchorage/Eagle River pairings and the dilution that these pairings may cause, specifically, in House District 21-South Muldoon.¹⁸⁴ Ultimately, they signed the Proclamation, noting their dissent.¹⁸⁵ Both Members' closing statements are contained in the Board's minutes in their entirety.¹⁸⁶

¹⁷⁹ ARB000216.

¹⁸⁰ ARB000217.

¹⁸¹ ARB000217.

¹⁸² ARB000217.

¹⁸³ ARB000219-ARB000222.

¹⁸⁴ November 10, 2021 Board Meeting Minutes, ARB000219.

¹⁸⁵ Board 2021 Proclamation of Redistricting, ARB000003.

¹⁸⁶ ARB000219-ARB000221.

IV. LEGAL PROCEEDINGS

The Alaska Constitution allows challenges to the Final Plan. Article VI, section 11 states, “[a]ny qualified voter may apply to the superior court to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting...”¹⁸⁷ In accordance with Article VI, section 11, five lawsuits were filed in superior courts throughout the State, and were consolidated under the caption, *In Re 2021 Redistricting Cases*, Consolidated Case No. 3AN-21-08869CI. All of these lawsuits challenge the 2021 Redistricting Plan and name the Alaska Redistricting Board as Defendant., and seek an order to the board to make corrections to the Plan.

A. Parties to the Case

The five cases are:

Municipality of Skagway v. Alaska Redistricting Board, 1JU-21-00944CI;
The City of Valdez v. Alaska Redistricting Board, 3VA-21-00080CI;
Matanuska-Susitna Borough v. Alaska Redistricting Board, 3PA-21-02397CI;
Calista Corporation v. Alaska Redistricting Board, 4BE-21-00372 CI; and
Felisa Wilson v. Alaska Redistricting Board, 3AN-21-08869CI.

Pursuant to Civil Rule 90.8(f) the Presiding Judges consolidated the five cases and moved them to Anchorage.

In addition, the Court granted a motion to intervene submitted by a coalition of several Alaska Native Corporations and individuals. They include Doyon, Limited; Tanana Chiefs Conference; Fairbanks Native Association; Ahtna, Inc., Sealaska; Donald Charlie, Jr.; Rhonda Pitka; Cherise Beatus; and Gordon Carlson. The State has also been participating in the litigation, but did not formally move to intervene.

In addition, several interested parties were granted permission to appear as *amicus curiae*. They include the Alaska Black Caucus, National Association for the Advancement of Colored People Anchorage, Alaska Branch #1000, Enlaces, the Korean

¹⁸⁷ The Alaska Supreme Court has broadly interpreted the concept of standing, favoring the increased accessibility to judicial forums. Accordingly, “any qualified voter” is authorized to institute and maintain a reapportionment suit seeking to correct any errors in redistricting. *Carpenter*, 667 P.2d at 1209-10.

American Community of Anchorage, Inc., the Native Movement, and First Alaskans Institute.

B. Pre-Trial Proceedings

All of the five cases were filed on or shortly the statutory deadline of December 10, 2021. The Presiding Judge issued an initial Pretrial Order on December 15 setting a scheduling hearing for December 20, 2021, and a Second Pre-trial Order on December 20, 2021. The undersigned judge was assigned as the trial judge on December 20, and held an initial discovery hearing on December 22, 2021. The Court issued its Third Pretrial Order on December 22, 2021. The Court held weekly Discovery and Status hearings thereafter until trial began. A Fourth Pre-Trial Order was issued setting forth the general trial plan was entered on January 4, 2022.

On December 23, 2021, the Parties filed an original Petition with the Supreme Court seeking an extension of the deadline for the final order in this case to be issued.¹⁸⁸ The Supreme Court granted a two-week extension to February 15, 2022.¹⁸⁹

On January 21, 2021, the Court began a 12-day bench trial. The trial was conducted entirely by Zoom and followed a hybrid format due to the highly condensed schedule. All direct testimony was pre-filed by Affidavit in advance of trial. In addition, the parties took depositions of each of the Board members, the executive director, expert witnesses and a third-party witness. At trial, the parties were permitted to conduct cross-examination of witnesses, and present redirect testimony. The Court also heard rebuttal evidence from each of the Plaintiffs, with the exception of East Anchorage.

In addition to the Deposition and trial testimony, the Court also received numerous exhibits from the Parties.

¹⁸⁸ Pursuant to Civil Rule 90.8(c), this Court's final decision was then due on February 1, 2022.

¹⁸⁹ Order on Original Application, S-18275 (December 23, 2021).

During the course of the pre-trial proceedings, the Court ruled on a number of pre-trial motions. The Orders addressing the various Motions and procedural issues are identified in Appendix A.

C. The Record Before the Court

Pursuant to Civil Rule 90.8, the record before this court included the record from the Redistricting Board. On December 22, 2021, the board submitted the initial record, consisting of 7,232 pages. The Board supplemented the record on January 14, 2022 with an additional 3,588 pages. A third supplement was submitted to the court on February 4, 2022 containing additional transcripts of Board meetings. The record is all labeled and identified as ARB 1 to ARB 11,662. The Board has also filed a complete copy of the trial transcript.¹⁹⁰

Attached as Appendix B is a list of all of the Deposition testimony included in the record. Attached as Appendix C is a copy of the Exhibit lists (as amended through trial) submitted by each party identifying the admitted exhibits. Attached as Appendix D is a summary of the Claims raised by each Plaintiff.

D. Trial Proceedings

During the trial in this case, the parties each presented testimony by Affidavit. The opposing parties then had the choice to cross-examine the witnesses. If a witness was crossed, then the offering party was afforded the opportunity to question the witness on re-direct.

At trial, the Plaintiffs presented a total of 19 lay witnesses, plus four expert witnesses. The Board presented 6 witnesses and the Intervenors also presented three witnesses. The Court has considered the affidavit testimony as well as the live testimony offered during trial (in addition to the depositions identified earlier.)

¹⁹⁰ As of this writing, only the closing arguments conducted on Friday, February 11, 2022 were not included in the transcript.

The following witnesses were heard from:

East Anchorage

Felisa Wilson, a Plaintiff and resident of District 23

Sean Murphy, a Plaintiff and resident of District 22

Yarrow Silvers, a Plaintiff and resident of District 21

David Dunsmore

Kevin McGee, President of the Anchorage area NAACP

Dr. Chase Hensel, PhD an expert in Anthropology

Mat-Su

Edna DeVries, a resident and Mayor of the Mat-Su Borough

Michael Brown, a resident and Manager of the Mat-Su Borough

Stephen Colligan, an expert in Redistricting and GIS

Valdez

Sharon Scheidt, Mayor of Valdez

Sheri Pierce, City Clerk of Valdez

Nathan Duval, Director of Capital Facilities, City of Valdez

Kimball Brace, an expert in Redistricting

Calista

Andrew Guy, President of Calista

William Naneng, resident of Hooper Bay

Harley Sundown, resident of Scammon Bay

Myron Naneng, COO of Sea Lion Corp.

Leonard Thom Aparuk, Director of Communications for Calista

Randy Ruedrich, expert witness in redistricting

Skagway

Andrew Cremata, Mayor of Skagway

Brad Ryan, Skagway Borough Manager

Jan Wrentmore, resident and business owner in Skagway

John Walsh, lobbyist for the City of Skagway

Kimball Brace, expert witness in redistricting

Intervenors

Michelle Anderson, President of Ahtna

Miranda Wright, Treasurer of Doyon

Vicki Otte, resident of McGrath and Doyon Shareholder

The Board

Melanie Bahnke, Board Member

Nichole Borromeo, Board Member

John Binkley, Board Member

Bethany Marcum, Board Member

Budd Simpson, Board Member

Peter Torkelson, Executive Director

V. JURISDICTION AND STANDARD OF REVIEW

Article VI, Section 11 of the Alaska Constitution provides that the superior court has “[o]riginal jurisdiction” over applications from qualified voters “to compel the Redistricting Board . . . to correct any error in redistricting.” The provision continues that:

all dispositions by the superior court . . . under this section shall be expedited and shall have priority over all other matters Upon a final judicial decision that a plan is invalid, the matter shall be returned to the board for correction and development of a new plan. If that new plan is declared invalid, the matter may be referred again to the board.¹⁹¹

Plaintiffs all have standing to bring these lawsuits and this court has original jurisdiction under the Alaska Constitution.

Alaska Civil Rule 90.8 provides additional guidance for redistricting challenges, including a strict deadline for issuing a decision.¹⁹²

Redistricting plans are reviewed in a similar manner as regulations adopted by an administrative agency, or in other words, “to ensure that the Board did not exceed its delegated authority and to determine if the plan is ‘reasonable and not arbitrary.’”¹⁹³ But

¹⁹¹ Alaska Const. art. VI, § 11.

¹⁹² Alaska R. Civ. P. 90.8(c) (“The date for the court’s decision shall be no later than 120 days prior to the statutory filing deadline for the first statewide election in which the challenged redistricting plan is scheduled to take effect.”).

¹⁹³ *In re 2011 Redistricting Cases (2011 Appeal III)*, 294 P.3d 1032, 1037 (Alaska 2012) (quoting *Kenai*

“a court may not substitute its judgment” for that of the Board or “choose among alternative plans,” nor is a plan’s “sagacity” or “wisdom” subject to review.¹⁹⁴

Courts apply their “independent judgment” to questions of law, including issues of first impression involving “constitutional and statutory interpretation,” and must “adopt the rule of law that is most persuasive in light of precedent, reason, and policy.”¹⁹⁵

VI. APPLICABLE LAW

A. District Boundaries (Alaska Const. art. VI, § 6)

Article VI, Section 6 of the Alaska Constitution provides several substantive criteria for the Board to apply when drawing geographic boundaries for house districts and when pairing senate districts:

Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty. Each senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.¹⁹⁶

The Court has clarified the terms “contiguous,” “compact,” and “integrated socio-economic area” over subsequent redistricting challenges as well as the equal population requirement.

1. Contiguous territory

The Court has defined the contiguity criterion to require “territory which is bordering or touching,” or more specifically, that “every part of the district is reachable from every other part without crossing the district boundary.”¹⁹⁷ But in light of Alaska’s size and

Peninsula Borough v. State, 743 P.2d 1352, 1357 (Alaska 1987)).

¹⁹⁴ *Carpenter v. Hammond*, 667 P.2d 1204, 1214 (Alaska 1983) (quoting *Groh v. Egan*, 526 P.2d 863, 866-67 (Alaska 1974)).

¹⁹⁵ *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017) (internal quotation marks omitted) (quoting *State v. Ketchikan Gateway Borough*, 366 P.3d 86, 90 (Alaska 2016)).

¹⁹⁶ Alaska Const. art. VI, § 6.

¹⁹⁷ *Hickel v. Se. Conf.*, 846 P.2d 38, 45 (Alaska 1992) (quoting Bernard Grofman, *Criteria for Districting: A*

“numerous archipelagos,” the Court noted that “a contiguous district may contain some amount of open sea” within reason and subject to the other Section 6 criteria.¹⁹⁸ The Alaska Supreme Court has defined a “contiguous territory” as one which is bordering or touching.¹⁹⁹ The Court determined that “[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces).”²⁰⁰ The Court acknowledges that Alaska is a unique state with many islands and massive coastline. This reality means that without limitations on the definition of “contiguous,” a coastal district could be considered contiguous with any other coastal district by reason of sharing the open sea. For example, District 37 covering the Aleutian Islands could permissibly be paired in a Senate district with District 2 in Southeast Alaska despite being separated by the Gulf of Alaska. In *Kenai*, the Supreme Court noted this anomalous result, and determined that *contiguity* could not be separated from the concept of *compactness* when crafting senate districts.²⁰¹

2. Compact territory

Compactness is defined as “having a small perimeter in relation to the area encompassed,” such that “bizarre designs” do not result.²⁰² The Court has provided some examples that may violate this criterion, such as “‘corridors’ of land that extend to include a populated area” or “appendages attached to otherwise compact areas.”²⁰³

3. Relatively integrated socio-economic area

The purpose of the relative socio-economic integration criterion is “to prevent[] gerrymandering” and “ensure that a voter is not denied his or her right to an equally

Social Science Perspective, 33 UCLA L. REV. 77, 84 (1985)), as modified on reh’g (Mar. 12, 1993).

¹⁹⁸ *Id.*

¹⁹⁹ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992).

²⁰⁰ *Id.* (quoting Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L.Rev. 77, 84 (1985)).

²⁰¹ *Kenai Peninsula*, 743 P.2d at 1365 n.21.

²⁰² *Hickel*, 846 P.2d at 45 (quoting *Carpenter v. Hammond*, 667 P.2d 1204, 1218 (Alaska 1983) (Matthews, J., concurring)).

²⁰³ *Id.* at 45-46.

powerful vote.”²⁰⁴ Delegates to the Alaska Constitutional Convention defined this principle to mean “a group of people living within a geographic unit” following “similar economic pursuits.”²⁰⁵ The Court has thus considered significant factors such as “ferry and daily air service, geographical similarities and historical economic links,” as well as other factors such as “patterns of housing, income levels and minority residences.”²⁰⁶ Municipalities and boroughs are “by definition socio-economically integrated.”²⁰⁷ The Court has also construed the modifier “relatively” to require a comparison of “proposed districts to other previously existing and proposed districts as well as principal alternative districts to determine if socio-economic links are sufficient.”²⁰⁸

4. Equal population

Although earlier Alaska redistricting cases accepted maximum population deviations as high as ten percent,²⁰⁹ after the 1998 amendment adding the language “as nearly as practicable,” the Alaska Supreme Court reasoned that this provision is usually “stricter than the federal threshold,” and that “technological advances will often make it practicable to achieve deviations substantially below the ten percent federal threshold, particularly in urban areas.”²¹⁰ Thus, the Board must “make a good faith effort” in reducing population deviations or otherwise “demonstrate that further minimizing the deviations would have been impracticable in light of competing requirements imposed under either federal or state law.”²¹¹

5. Local government boundaries

As for the significance of local government boundaries, although this criterion arguably applies to both house and senate districts, focusing on the text’s permissive

²⁰⁴ *Id.* at 46.

²⁰⁵ *Id.* (quoting 3 PACC 1873 (January 12, 1956)).

²⁰⁶ *Id.* at 47 (quoting *Groh v. Egan*, 526 P.2d 863, 879 (Alaska 1974)).

²⁰⁷ *2001 Appeal I*, 44 P.3d 141, 146 (Alaska 2002); *see also Hickel*, 846 P.2d at 51 (“[A] borough must have a population which ‘is interrelated and integrated as to its social, cultural, and economic activities.’” (quoting AS 29.05.031(a)(1))).

²⁰⁸ *Hickel* 846 P.2d at 47.

²⁰⁹ *See Groh*, 526 P.2d at 877.

²¹⁰ *In re 2001 Redistricting Cases (2001 Appeal I)*, 44 P.3d 141, 145-46 (Alaska 2002).

²¹¹ *Id.* at 146.

language, the Court has said “that respecting local government boundaries is discretionary.”²¹² But the Court has also noted that “the division of a borough which otherwise has enough population to support an election district will be an indication of gerrymandering,” in which case “some legitimate justification” is required.²¹³

B. Public Hearings Requirement (Alaska Const. art. VI, § 10)

The Alaska Constitution also outlines the process for the Board to receive public feedback prior to adoption of the final plan:

Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board. No later than ninety days after the board has been appointed and the official reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. The final plan shall set out boundaries of house and senate districts and shall be effective for the election of members of the legislature until after the official reporting of the next decennial census of the United States.²¹⁴

The Alaska Supreme Court has not yet provided concrete guidance on how to interpret this section since its amendment in 1998, and superior courts overseeing subsequent redistricting disputes have reached different results. In 2002, the superior court reasoned “that Article VI, Section 10 requires that public hearings be held only on the plan or plans adopted by the Board within thirty days of the reporting of the census.”²¹⁵ But in 2013, after the Alaska Supreme Court remanded the 2011 final plan to the Board for a second time,²¹⁶ the superior court ordered that Section 10’s broad mandate meant that “[p]ublic hearings must be held for a new plan or plans promulgated by the Board,”²¹⁷ even though the initial 30-day window had long since passed.

²¹² *2001 Appeal II*, 47 P.3d 1089, 1091 (Alaska 2002).

²¹³ *Hickel*, 846 P.2d at 51 n.20.

²¹⁴ Alaska Const. art. VI, § 10(a).

²¹⁵ *In re 2001 Redistricting Cases (2001 Cases I)*, No. 3AN-01-08914CI, at 33 (Alaska Super., Feb. 01, 2002).

²¹⁶ *See 2011 Appeal III*, 294 P.3d 1032, 1039 (Alaska 2012).

²¹⁷ *In re 2011 Redistricting Cases (2011 Cases II)*, No. 4FA-11-02209CI, at 3 (Alaska Super., May 30,

C. Equal Protection (Alaska Const. art. I, § 1; U.S. Const. amend. 14)

Article I, Section 1 of the Alaska Constitution provides “that all persons are equal and entitled to equal rights, opportunities, and protection under the law.”²¹⁸ There is also a robust body of case law involving the federal Equal Protection Clause,²¹⁹ particularly as it pertains to redistricting.²²⁰ The Alaska Supreme Court has consistently noted that “the equal protection clause of the Alaska Constitution imposes a stricter standard than its federal counterpart.”²²¹

“In the context of voting rights in redistricting and reapportionment litigation, there are two basic principles of equal protection, namely that of ‘one person, one vote’—the right to an equally weighted vote—and of ‘fair and effective representation’—the right to group effectiveness or an equally powerful vote.”²²² The first principle has been described as “quantitative, or purely numerical, in nature,” and the second as “qualitative.”²²³ The Alaska Supreme Court has noted that, under Alaska equal protection jurisprudence, the first principle “has mirrored the federal requirement,” whereas the second “has been interpreted more strictly than the analogous federal provision.”²²⁴ The Alaska equal protection clause also presents its own redistricting analysis.²²⁵

1. One person, one vote

The U.S. Supreme Court has interpreted the Equal Protection Clause of the Fourteenth Amendment to generally provide for “one person, one vote,”²²⁶ while in

2013). The superior court reasoned “that the Board has access to, and has used, different forms of technology throughout this process and could hold public hearings through a variety of . . . technologies designed to promote the widest public input in the shortest amount of time.” *Id.* at 3 n.6.

²¹⁸ Alaska Const. art. I, § 1.

²¹⁹ See U.S. Const. amend. XIV, § 1 (“No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

²²⁰ See, e.g., *Rucho v. Common Cause*, 139 S. Ct. 2484, 2498 (2019); *Reynolds v. Sims*, 377 U.S. 533, 566 (1964).

²²¹ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1371 (Alaska 1987).

²²² *Id.* at 1366.

²²³ *Hickel v. Se. Conf.*, 846 P.2d 38, 47 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

²²⁴ *Id.*

²²⁵ *Kenai Peninsula Borough*, 743 P.2d at 1371.

²²⁶ *Gray v. Sanders*, 372 U.S. 368, 381 (1963).

general permitting “minor deviations from mathematical equality” without justification.²²⁷ Whereas “a maximum population deviation under 10%” is considered “minor,” justification must be provided for any deviation above that threshold.²²⁸ The Court has also identified a number of “traditional districting principles such as compactness, contiguity, and respect for political subdivisions,” that may justify greater deviations to some degree.²²⁹ These concepts are also explicitly codified in Article VI, Section 6 of the Alaska Constitution.

2. Fair and effective representation

Recognizing that numerical equality alone can still produce “the most grossly gerrymandered results,” the U.S. Supreme Court has also recognized substantive restraints that come into play “if racial or political groups have been fenced out of the political process and their voting strength invidiously minimized.”²³⁰ In *Davis v. Bandemer*, a plurality of the Court held that invidious discrimination on the basis of political groups in redistricting presented a justiciable claim.²³¹ The plurality reasoned that “unconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter’s or a group of voters’ influence on the political process as a whole.”²³² The Alaska Supreme Court quoted *Bandemer* approvingly in subsequent redistricting challenges,²³³ reading that case to “require[] a showing of a pattern of discrimination” against an identifiable group, in addition to proving discriminatory intent and effect to succeed on a vote dilution claim.²³⁴ But in 2019 the U.S. Supreme Court ultimately concluded that partisan gerrymandering claims under the Fourteenth Amendment are nonjusticiable.²³⁵ The Alaska Supreme Court has not yet addressed the

²²⁷ *Gaffney v. Cummings*, 412 U.S. 735, 745 (1973).

²²⁸ *Kenai Peninsula Borough*, 743 P.2d at 1366 (citing *Brown v. Thomson*, 462 U.S. 835, 842 (1983)).

²²⁹ *Shaw v. Reno*, 509 U.S. 630, 647 (1993); see also *Reynolds v. Sims*, 377 U.S. 533, 578-80 (1964) (listing impermissible factors such as “history alone” and “economic or other sorts of group interests”).

²³⁰ *Gaffney v. Cummings*, 412 U.S. 735, 753-54 (1973).

²³¹ 478 U.S. 109, 124-25 (1986), abrogated by *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019).

²³² *Id.* at 132.

²³³ See *Kenai Peninsula Borough*, 743 P.2d at 1368-69; accord *Hickel v. Se. Conf.*, 846 P.2d 38, 49 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

²³⁴ *Hickel*, 846 P.2d at 49.

²³⁵ *Rucho*, 139 S. Ct. at 2506-07.

import of this decision vis-à-vis the potential for partisan gerrymandering claims under the Alaska Constitution.

3. Alaska equal protection analysis

Equal protection analysis under Article I, Section 1 of the Alaska Constitution applies “an adjustable ‘uniform-balancing’ test . . . depending on the importance of the individual right involved” to determine the applicable level of scrutiny, which is then balanced against the government’s purpose and “the state’s interest in the particular means employed.”²³⁶ In *Kenai Peninsula Borough v. State*, the Court concluded that “a voter’s right to an equally geographically effective or powerful vote . . . represent[s] a significant constitutional interest.”²³⁷ The Court therefore applied a “stricter equal protection standard when assessing the constitutionality of a reapportionment plan.”²³⁸ In that context, “upon a showing that the Board acted intentionally to discriminate against the voters of a geographic area, the Board must demonstrate that its plan will lead to greater proportionality of representation.”²³⁹ In light of the stricter constitutional standard, no “pattern of discrimination” is required, and the de minimis nature of any imbalance is not considered “when determining the legitimacy of the Board’s purpose.”²⁴⁰

D. Due Process (Alaska Const. art. I, § 7)

Article I, Section 7 of the Alaska Constitution states that “[n]o person shall be deprived of life, liberty, or property, without due process of law.”²⁴¹ The Alaska Supreme Court has identified both procedural and substantive applications of due process:

This clause requires that adequate and fair procedures be employed when state action threatens protected life, liberty, or property interests. This is procedural due process. It also may bar state action that infringes such interests in the absence of a

²³⁶ *Kenai Peninsula Borough*, 743 P.2d at 1370-71 (quoting *Alaska Pacific Assurance Co. v. Brown*, 687 P.2d 264, 269 (Alaska 1984)).

²³⁷ *Id.* at 1372.

²³⁸ *Id.* at 1371.

²³⁹ *Hickel*, 846 P.2d at 49 (citing *Kenai Peninsula Borough*, 743 P.2d at 1372).

²⁴⁰ *Id.*

²⁴¹ Alaska Const. art. I, § 7.

sufficient government reason making procedures irrelevant. This is substantive due process. Substantive due process is a doctrine that is meant to guard against unfair, irrational, or arbitrary state conduct that “shock[s] the universal sense of justice.”²⁴²

As for procedural due process, the constitution “does not require a full-scale hearing in every situation to which due process applies.”²⁴³ “At a minimum, due process requires that the parties receive notice and an opportunity to be heard.”²⁴⁴

Under both the Federal and Alaska Constitutions, due process analysis involves consideration of three factors: (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards; and (3) the government’s interest, including the fiscal and administrative burdens that additional or substitute procedural requirements would entail.²⁴⁵

However, the Alaska Supreme Court has provided little in the way of guidance as to how the Due Process Clause applies to redistricting challenges.²⁴⁶ In other jurisdictions, courts have found violations of due process in electoral procedures only in rare instances where state action “seriously undermine[s] the fundamental fairness of the electoral process.”²⁴⁷ Such examples include filling vacancies through appointment rather than holding elections as required under state law.²⁴⁸

E. The Hickel process

In *Hickel v. Southeast Conference*, the Alaska Supreme Court formulated the following process for designing an interim redistricting plan on remand:

²⁴² *Doe v. Dep’t of Pub. Safety*, 444 P.3d 116, 124-25 (Alaska 2019) (footnotes omitted) (quoting *Church v. State, Dep’t of Revenue*, 973 P.2d 1125, 1130 (Alaska 1999)).

²⁴³ *Laidlaw Transit, Inc. v. Anchorage Sch. Dist.*, 118 P.3d 1018, 1026 (Alaska 2005) (quoting *Frontier Saloon, Inc. v. Alcoholic Beverage Control Bd.*, 524 P.2d 657, 661 (Alaska 1974)).

²⁴⁴ *Haggbloom v. City of Dillingham*, 191 P.3d 991, 995 (Alaska 2008).

²⁴⁵ *Id.* (citing *Laidlaw Transit*, 118 P.3d at 1026); accord *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

²⁴⁶ See, e.g., *2001 Appeal I*, 44 P.3d 141, 147 (Alaska 2002) (holding only that the plaintiffs’ due process claims “have no merit”).

²⁴⁷ *Duncan v. Poythress*, 657 F.2d 691, 700 (5th Cir. 1981).

²⁴⁸ *Id.* at 704; see also *Nolles v. State Comm. for Reorganization of Sch. Districts*, 524 F.3d 892, 898-99 (8th Cir. 2008) (collecting cases).

Priority must be given first to the Federal Constitution, second to the federal voting rights act, and third to the requirements of article VI, section 6 of the Alaska Constitution. The requirements of article VI, section 6 shall receive priority *inter se* in the following order: (1) contiguousness and compactness, (2) relative socioeconomic integration, (3) consideration of local government boundaries, (4) use of drainage and other geographic features in describing boundaries.²⁴⁹

On rehearing, the Court clarified this process further:

The Board must first design a reapportionment plan based on the requirements of the Alaska Constitution. That plan then must be tested against the Voting Rights Act. A reapportionment plan may minimize article VI, section 6 requirements when minimization is the only means available to satisfy Voting Rights Act requirements.²⁵⁰

The Court explained that, although “expediency mandated” prioritizing “compliance with the Voting Rights Act” at the time, when “drafting a permanent plan” outside of such added time constraints, “[t]he Board shall ensure that the requirements of article VI, section 6 of the Alaska Constitution are not unnecessarily compromised by the Voting Rights Act.”²⁵¹ This became known as the *Hickel* process, and the Court has adhered to this list of priorities in subsequent redistricting challenges.²⁵² The Court even rejected the 2011 final redistricting plan due solely to the Board’s failure to “follow the *Hickel* process.”²⁵³ The Court concluded that subsequent U.S. Supreme Court decisions “have made adherence to the *Hickel* process even more critical,” as jurisdictions must “ensur[e] that traditional redistricting principles are not ‘subordinated to race.’”²⁵⁴ And in light of *Shelby County v. Holder* striking down Section 4 of the Voting Rights Act,²⁵⁵ some considerations such as preclearance are no longer obstacles.²⁵⁶

²⁴⁹ *Id.* at 62.

²⁵⁰ *Id.* at 51 n.22.

²⁵¹ *Id.*

²⁵² 2001 *Appeal I*, 44 P.3d 141, 143 n.2 (Alaska 2002).

²⁵³ *In re 2011 Redistricting Cases (2011 Appeal I)*, 274 P.3d 466, 468 (Alaska 2012).

²⁵⁴ *Id.* (quoting *Bush v. Vera*, 517 U.S. 952, 959 (1996)).

²⁵⁵ 570 U.S. 529, 557 (2013).

²⁵⁶ See *Feldman v. Arizona Sec’y of State’s Off.*, 843 F.3d 366, 369 (9th Cir. 2016).

F. Voting Rights Act

In addition to the state requirements, the Federal Voting Rights Act governs redistricting of state election districts.²⁵⁷ This Act protects the voting power of racial minorities.²⁵⁸ “Under section 5 of the Act, a reapportionment plan is invalid if it ‘would lead to a retrogression in the position of racial of racial minorities with respect to their effective exercise of the electoral franchise.’ ”²⁵⁹

Furthermore, in order to comply with section 5 of the Act,²⁶⁰ the Alaska Supreme Court has ruled that a “state may constitutionally reapportion districts to enhance the voting strength of minorities in order to facilitate compliance with the Voting Rights Act.”²⁶¹ Under Section 2 of the Federal Voting Rights Act, Plaintiffs may have a redistricting plan invalidated if: (1) under the totality of the circumstances, the redistricting results in unequal access to the electoral process; and (2) racially polarized bloc voting exists.²⁶²

G. Open Meetings Act (AS 44.62.310-19)

Finally, Alaska Statute 44.62.310, otherwise known as the Open Meetings Act²⁶³ (“Act”), provides that “[a]ll meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law.”²⁶⁴ The Act contemplates teleconferencing and it requires “[r]easonable public notice” prior to any public meeting.²⁶⁵ The Act also allows certain subjects to be considered in executive session.²⁶⁶ Although the Act declares that “[a]ction taken contrary

²⁵⁷ 42 U.S.C. § 1973 (1988) (quoting *Egan*, 502 P.2d at 865-66 (footnotes omitted) (quoted in *Groh*, 526 P.2d at 875; *Kenai Peninsula Borough*, 743 P.2d at 1359; and *Hickel*, 846 P.2d at 50)).

²⁵⁸ See *Hickel*, 846 P.2d at 49.

²⁵⁹ *Hickel*, 846 P.2d at 49 (quoting *Kenai Peninsula Borough*, 743 P.2d at 1361, quoting *Beer v. United States*, 425 U.S. 130, 141 (1976)).

²⁶⁰ In 2013, the United States Supreme Court struck down a portion of Section 4 addressing pre-clearance of Redistricting plans. *Shelby County, Alabama v. Holder*, 570 U.S. 529, 557 (2013). As a result, Alaska is no longer required to seek preclearance of its redistricting plan from the Justice Department.

²⁶¹ *Kenai Peninsula Borough*, 743 P.2d at 1361; quoted in *Hickel*, 846 P.2d at 49-50.

²⁶² *Hickel*, 846 P.2d at 50 (citing *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986)).

²⁶³ AS 44.62.319.

²⁶⁴ AS 44.62.310(a).

²⁶⁵ AS 44.62.310(a), (e).

²⁶⁶ AS 44.62.310(c) (including finances, reputational matters, confidential matters, and non-disclosable government records).

to this section is voidable,” the superior court must first weigh a number of factors to determine whether “the public interest in compliance . . . outweighs the harm that would be caused to the public interest and to the public entity by voiding the action.”²⁶⁷ The legislature additionally stated its intent that any exceptions to the Act “be construed narrowly.”²⁶⁸

The Alaska Supreme Court addressed the question of whether the attorney-client privilege is a valid excuse for calling executive sessions under the Act in *Cool Homes, Inc. v. Fairbanks North Star Borough*.²⁶⁹ In light of the Act’s broad policy goals, the Court reasoned that “[t]he privilege should not be applied blindly” and the existence of pending litigation “is not enough”; instead, the privilege only permits executive sessions to further “candid discussion of the facts and litigation strategies.”²⁷⁰ The Court thus recognized a narrow exception for when members of a board faced “personal liability” in “ongoing litigation,” and therefore called an executive session to obtain “legal advice as to how it and its members could avoid legal liability,” as opposed to just “general legal advice.”²⁷¹

In *Hickel*, the Court affirmed “that the Open Meetings Act and Public Records Act apply generally to the activities of the Reapportionment Board.”²⁷² But in 1998, Article VI was amended so that the Board is no longer appointed solely by the Governor.²⁷³ And in the 2001 redistricting challenge, the Court assumed that the Act continues to apply to the Board without actually reaching that question.²⁷⁴ In a separate order, this court addressed these questions and determined that the Act does continue to apply to the Board,²⁷⁵ which is now the law of the case.

²⁶⁷ AS 44.62.310(f).

²⁶⁸ AS 44.62.312(b).

²⁶⁹ 860 P.2d 1248, 1260-62 (Alaska 1993).

²⁷⁰ *Id.* at 1262.

²⁷¹ *Id.*

²⁷² *Hickel v. Se. Conf.*, 846 P.2d 38, 57 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

²⁷³ See former Alaska Const. art. IV, § 8.

²⁷⁴ *2001 Appeal I*, 44 P.3d 141, 147 (Alaska 2002).

²⁷⁵ See Order re Motion for Rule of Law – Attorney Client Privilege (Jan. 18, 2022).

VII. PRACTICAL LIMITATIONS

In his opinion relating to the 2001 redistricting challenges, Judge Rindner aptly described the practical limitations inherent in redistricting in Alaska:

In addition to the legal principles discussed, the court notes the practical problems connected with redistricting in Alaska. The Alaska Supreme Court, in virtually every redistricting case, has recognized the following general principles:

At the outset we recognize the difficulty of creating districts of equal population while also conforming to the Alaska constitutional mandate that the districts 'be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.'

When Alaska's geographical, climatical, ethnic, cultural and socio-economic differences are contemplated the task assumes Herculean proportions commensurate with Alaska's enormous land area. The problems are multiplied by Alaska's sparse and widely scattered population and the relative inaccessibility of portions of the state...

...

Despite the possibility of belaboring this opinion we feel obliged to set forth a few of the facts which make it difficult to fit Alaska's reapportionment plan into standards established for the 48 contiguous states which preceded it into the Union. Alaska has a total land area of 586,400 square miles-as large as the entire Louisiana Purchase, and one-fifth the total area of the continental United States. Its boundaries embrace four time zones. The state contains the highest mountain on the North American continent, glaciers that exceed the size of the State of Rhode Island, and a coastline longer than the total coastline along the remainder of the continental United States. Mountain ranges which equal or exceed the length and height of the Rockies divide Alaska into five relatively isolated regions which in turn are subdivided by river systems and other geographic factors such as broad expanses of frozen tundra challenging the most advanced roadway engineering.

...

When confronted with conditions so different from those of any other single state in the continental United States, it is readily apparent that it becomes

well nigh impossible to achieve the mathematical precision of equal proportions which is feasible in those other states.²⁷⁶

The Board is also constrained by the limited time requirements set forth in the 1998 constitutional amendments. After receipt of the decennial census data reports, the Board is only given 90 days to complete its work.²⁷⁷ Given this extraordinary time frame, there is a substantial burden placed on the individual board members and staff to complete the work. The Court's review of the challenges to the Board's processes must be considered in this context.

Finally, the Court also recognizes the work of this Board was complicated by the COVID-19 pandemic. In addition, the census data was received by the State much later than normal. In most years, the census data is received in the March or April. This cycle, the data was not received until August, placing the Board's 90-day time allotment through the fall instead.

Faced with the many obstacles and extraordinary timeframe imposed by Alaska's constitution, this Court wishes to emphasize the Board and its staff performed the usual "herculean task" of redistricting most admirably. Nothing in this order should be taken as a personal attack on any of the participants who all performed a great public service under extraordinary circumstances.

VIII. THE EAST ANCHORAGE CHALLENGES – Senate District K

A. Article VI Section 6

Plaintiffs argue that Senate District K violates the mandate in Article VI section 6 that senate districts be composed "as near as practicable of two contiguous house districts." Plaintiffs allege that in pairing South Muldoon and Eagle River Valley, which are two districts one cannot travel between without leaving the Senate district and are separated by a mountain range, the district is not contiguous "as nearly as practicable."

²⁷⁶ *In Re 2001 Redistricting Cases*, 2002 WL 34119573, at *20-21 (February 1, 2002).

²⁷⁷ Alaska Const. art VI, § 10.

1. Law

Article VI section 6 provides, relative to Senate Districts, that, “[e]ach senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.”²⁷⁸ The constitutional framers intended Senate districts to use geographic criterion rather than the socio-economic integration requirements set forth in Article VI, Section 6.²⁷⁹ However, Senate districts must still be compact and contiguous.²⁸⁰

The Alaska Supreme Court has defined a “contiguous territory” as one which is bordering or touching.²⁸¹ The Court determined that “[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces).”²⁸²

The Superior Court in *In re 2001 Redistricting Cases* considered a request to define contiguity to include the requirement that residents be able to cross the district using the existing transportation systems without leaving the district.²⁸³ The court declined to adopt this definition, explaining that Alaska law does not support such a limited definition of contiguity, and emphasized that contiguity is a visual concept that assures *only* that no district contains discrete or unconnected parts.²⁸⁴ To be sure, Black’s law Dictionary defines “contiguous” as “touching at a point or along a boundary.”²⁸⁵ Likewise, Merriam-Webster defines “contiguous” as “being in actual contact, touching along a boundary or at a point.”²⁸⁶

²⁷⁸ Alaska Const. art. VI § 6.

²⁷⁹ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1365 (Alaska 1987).

²⁸⁰ *Kenai* was decided prior to the 1998 Amendments which re-wrote section 6. However, the Supreme Court has not overruled the interpretation of “contiguous” in *Kenai* incorporating a measure of compactness.

²⁸¹ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992).

²⁸² *Id.* (quoting Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L.Rev. 77, 84 (1985)).

²⁸³ *In Re 2001 Redistricting Cases*, 2002 WL 34119573, at *39 (Alaska Super. Feb. 1, 2002).

²⁸⁴ *Id.*

²⁸⁵ *Contiguous*, BLACK’S LAW DICTIONARY (11th ed. 2019).

²⁸⁶ *Contiguous*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/contiguous> (last visited Feb. 11, 2022).

2. Analysis

East Anchorage Plaintiffs explain that Senate District K is, practically speaking, “divided into two or more discrete pieces.”²⁸⁷ Plaintiffs lean on the law review article cited by the *Hickel* court in defining contiguity, which states that “there may be a dispute about contiguity if the only route between two places in the district is via roads which do not lie entirely within the district.”²⁸⁸ While this is not an unreasonable definition,²⁸⁹ the Alaska Superior Court disagreed that such a definition should be applied in *In Re Redistricting Cases 2001*, and the Supreme Court declined to disrupt that determination on review.

Nonetheless, Plaintiffs argue that that Senate District K may be contiguous in the strictest interpretation of the word “contiguous,” but is not “as contiguous as practicable,” as required by Article VI Section 6. Plaintiffs also argue that Section 6 requires that “geographic features” and “drainage” be “used in describing boundaries wherever possible,” but instead were ignored. Dr. Hensel did testify that the districts are separated by the Chugach mountain range, which is the principal impediment to traveling across Senate District K without leaving the district.²⁹⁰ Further, Plaintiffs assert that South Muldoon and Eagle River Valley are located in separate drainages, and are even separated by a drainage.

However, the Board argues that it is unnecessary to go any further than ensuring that the house districts which are paired have boundaries that touch, particularly where both house districts exist within the Municipality of Anchorage.²⁹¹ Thus, the Board argues that two house districts that have boundaries which are physically touching and reside in the same borough are contiguous by law, and there is no need to discern whether pairing

²⁸⁷ *Hickel*, 846 P.2d at 45 (Alaska 1992) (quoting Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L.Rev. 77, 84 (1985)).

²⁸⁸ Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L.Rev. 77, 84 n. 37 (1985).

²⁸⁹ Elsewhere in this Opinion, the Court addresses a similar argument raised by Mat-Su and Valdez in the context of house districts. See *infra*. There, the Court rejected the argument that House District 29 was not contiguous because a driver leaving Valdez would need to travel through District 36 to get to the Mat-Su Borough.

²⁹⁰ Affidavit of Chase Hensel, Ph.D. ¶ 24.

²⁹¹ Anchorage, which includes both East Anchorage and Eagle River, is socio-economically integrated by law. *In re 2001 Redistricting Cases*, 44 P.3d 141, 145 (Alaska 2002).

those two house districts was done “as nearly as practicably,” because the house districts are, in fact, legally contiguous.

While it is apparent that Senate district K contains two house districts that are practically separated, the boundaries are in fact physically touching. No more is required. Moreover, the fact that South Muldoon and Eagle River are located in different drainages does not mean the districts are not contiguous. In context, the reference to “drainage and other geographic features” is not a constitutional limitation on contiguity. Instead, the plain language of section six indicates such geographic features shall be used where possible *in describing boundaries*.²⁹²

B. Article VI Section 10 – East Anchorage

Plaintiffs allege that the Board did not properly or timely present a proposed plan that included Senate pairings. Further, Plaintiffs contend that the Board never held hearings regarding any adopted senate pairings and underwent deliberations about Senate pairings in Executive Session away from the public view, immediately before voting to adopt new senate pairings that had not been presented to the public. East Anchorage argues that this reflects a “deliberate effort to postpone consideration of Senate pairings until after it decided on the contours of its finalized house districts.”²⁹³ As such, Plaintiffs ask this Court to void the Senate pairings that were adopted unconstitutionally and remand to the Board to adopt Senate pairings with a procedure that conforms with the Constitution.

East Anchorage alleges a violation of Article VI Section 10 of the Alaska Constitution. Section 10 provides that:

Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board. No later than ninety days after the board has been appointed and the official

²⁹² Article VI, § 6 (emphasis added.)

²⁹³ East Anchorage’s Pretrial Brief at 12.

reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. The final plan shall set out boundaries of house and senate districts and shall be effective for the election of members of the legislature until after the official reporting of the next decennial census of the United States.²⁹⁴

The *In Re 2001 Redistricting Cases* included a challenge under section 10 wherein Plaintiffs argued that the Board accepted late filed plans, failed to hold public hearings on those plans, and ultimately adopted one such late-filed plan, violating Article VI section 10 of the Alaska constitution.²⁹⁵ The trial court determined that Article VI, Section 10 only requires that public hearings be held on the plan or plans adopted by the Board within the constitution's thirty day deadline.²⁹⁶ The Board is under a very expedited constitutional timeline. Thus, the court reasoned that if the Board were required to continually hold public hearings on any significant modification it made in response to public comment, it may discourage the Board from making necessary modifications in response to public comment on the original plans. There may also be unnecessary deliberation over whether a modification was significant such that the Board was required to hold additional public hearings. However, the court also commented that the 2001 redistricting challenge to Article VI Section 10 did not contemplate a situation where the Board adopted a new plan radically different from the proposed plans, which itself was never subjected to public hearings.²⁹⁷ On review, the Alaska Supreme Court found that such a Due Process challenge held no merit, and did not comment on the issue further.²⁹⁸

In this case, the Board did an exceptional job allowing for public comment in general. Throughout the process, the Board very regularly took public testimony, particularly regarding the house districts. The Board members even held off on a vote on proposed plans v.1 and v.2 in order to receive a final round of public comment first.²⁹⁹

²⁹⁴ Alaska Const. art. VI § 10(a).

²⁹⁵ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *23-24 (Alaska Super. Feb. 1, 2002).

²⁹⁶ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *23 (Alaska Super. Feb. 1, 2002) (Trial Order).

²⁹⁷ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *24 n. 40 (Alaska Super. Feb. 1, 2002) (Trial Order).

²⁹⁸ *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002) ("We hold that plaintiffs' due process challenges to the board's development of the Proclamation plan have no merit.").

²⁹⁹ Board Meeting Transcript 166:5-25, 167:1-17 (Sept. 9, 2021).

From September 27, 2021, through November 1, 2021, the Board traveled around Alaska on a “Public Hearing Tour” which the Board dubbed “The Roadshow” and visited 23 different locations around Alaska. It also held at least two “Statewide Dial-in” hearings to allow citizens to testify remotely.³⁰⁰ Further, public testimony was taken at almost every hearing where substantive issues about house maps were considered and deliberated.

It does appear, however, that meaningful public testimony regarding Senate pairings was only taken once, on November 8, 2021.³⁰¹ The Court acknowledges that Senate pairings would have been difficult to comment on meaningfully with respect to the proposed maps. While the third-party proposed maps did include Senate districts, it is difficult for the Court to evaluate the ability for the public to truly comment on Senate pairings before the final house map was adopted, and none of the Board’s own maps proposed senate pairings.

The conflict here is twofold. Initially, there is a question as to whether the Board’s choice not to include Senate pairings in the plans adopted by the constitutional deadline violated Section 10. Second, the Court considers whether the Board’s failure to hold hearings on the Senate pairings it proposed on the finalized house districts, namely on Member Marcum’s proposed Senate Pairings, violated the constitutional requirement that the Board hold hearings on all proposed plan(s).

1. Strict Statutory Construction Favors Interpreting “proposed redistricting plans” to Include Both House and Senate Pairings

First, the Court considers the strict textual interpretation of Article VI, Section 10. When considering a question of constitutional law, the Court first consults the Alaska Constitution’s plain text “as clarified through its drafting history.”³⁰² However, constitutional provisions are not to be interpreted in a vacuum, and any section of the Constitution must be considered in context.³⁰³ Terms and phrases chosen by the framers

³⁰⁰ ARB 4416-4417, Alaska Redistricting Board Public Hearing Tour.

³⁰¹ Board Meeting Minutes at 1-4 (Nov. 8, 2021).

³⁰² *Forrer v. State*, 471 P.3d 569, 585 (Alaska 2020), *reh’g denied* (Feb. 5, 2021) (citing *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017); *Hickel v. Cowper*, 874 P.2d 922, 926 (Alaska 1994)).

³⁰³ *Forrer*, 471 P.3d at 585–86.

are given their ordinary meaning as they were understood at the time, and usage of those terms is presumed to be consistent throughout.³⁰⁴ The Court should not add “missing terms” to a constitutional provision or “interpret existing constitutional language more broadly than intended by ... the voters.”³⁰⁵

Article VI, Section 10 does not specifically describe what is to be included in a proposed redistricting plan. The Board understood this section to be “silent” on the issue and thus decided they had discretion to determine whether to include Senate pairings in the plans proposed by the Constitutional deadline.³⁰⁶ However, as explained below, the Court disagrees and concludes that Article VI, Section 10 requires the Board to include Senate pairings in its proposed plans.

In addition to the plain text, the Court interprets a proposed redistricting plan in the context of the rest of the provision. While there exists no specific description of what a proposed redistricting plan entails, Section 10 does specify that a final plan is to “set out boundaries of house and senate districts.” The Court interprets a “proposed plan” in the context of the description of a final plan. A proposed plan is thus a proposed final plan, and should likewise include both House and Senate districts. Nothing in the language of the texts suggests there should be any difference in the component parts of the plan.

Further, the final plan is to be “effective for the election of members of the legislature.” Thus, redistricting has direct implications on both chambers of the legislature. It would be inconsistent with the definition of a final redistricting plan to hold that a proposed plan need only include proposals that implicate one chamber of Congress. The Court does recognize that, practically speaking, drawing house districts is a more time intensive and laborious task than selecting Senate pairings. Further, senate pairings are applied to existing house districts, and thus senate pairings could not realistically precede the creation of house districts. However, despite the practical realities, it is illogical to presume that one chamber would take precedence over the other. While Section 10 does

³⁰⁴ *Id.*

³⁰⁵ *Wielechowski v. State*, 403 P.3d 1141, 1152 (Alaska 2017).

³⁰⁶ Board Meeting Transcript 162:4-10 (Sept. 9, 2021). Given the lack of court direction on the matter, the Court does not agree with Plaintiff’s allegation that this reflects bad faith or a deliberate effort to delay consideration until the very end of the process.

not specify that senate pairings must be included, it likewise does not specify that house pairings must be. The Court cannot interpret Section 10 to select a single chamber of the legislature to be included in the proposed redistricting plan. Once the final redistricting plan is effective, it implicates both the house and senate equally, and both must therefore be equally included in Section 10.

Also mandated by Section 10 are public hearings on the proposed plan. The Court does recognize that in this case, senate pairings were included in the third-party plans which were brought on the Public Hearings Tour. Yet, in the event that the Board chose not to adopt third-party plans, which it is not required to do, no Senate pairings would have been presented to the public during the public hearings process at all. It would frustrate the clear intent of Section 10's public hearings clause to interpret proposed plans in a way that would allow the Board to avoid holding public hearings on proposals for one of the two chambers of the legislature.

The Court understands that the proposed plan is, practically speaking, a draft. Public hearings in response to the draft are intended to allow for comment from which changes are expected to flow. However, there is a difference between a proposed plan with room for improvement and a partial or incomplete proposed plan. Where a final plan must include districts for both the House and Senate, a proposed plan that omits senate pairings is a partial plan that leaves out half of the legislature. That differs from a proposed plan that contains Senate pairings which are later altered in response to public comment.

Moreover, the Court is troubled by the notion that the proposed plan is simply to be completed in order to comply with the constitutional deadline, with the "real work" to be done after that point. The Court is deeply sympathetic to the highly expedited timeline imposed on the Redistricting Board. However, Constitutional mandates must be observed. Section 10 describes a singular "proposed plan." Multiple proposed plans are not the rule, but the consequence "if no single proposed plan is agreed on." While there is no defined constitutional limit as to how substantially a proposed plan may change once it is adopted as a proposal, it should be the intent of the Board to adopt a proposed plan which all members can agree on as a strong plan for the public to offer comments on.

Thus, any proposed plan should be as complete as is practicable, and accordingly should include proposals as to both chambers of the legislature.

Further, the Court is skeptical of the Board's argument that adoption of third-party plans can satisfy the constitutionally mandated process, particularly where the Board relies on third-party Senate proposals in responding to Plaintiffs' claims. Section 10 also specifies that proposed plans are plans "proposed by the Board." Technically, third-party plans were proposed by third parties and then adopted by the Board on motion. There is no indication that adopting third-party plans is improper, and they may be valuable to both the Board and the public. However, third-party plans should be supplemental, and should not provide the pillar upon which the Board rests its adherence to Constitutional mandates.

2. Senate Pairings Must be Included as Plans Proposed by the Constitutional Deadline

The plans adopted by the constitutional deadline, September 11, 2021, did not include any senate pairings.³⁰⁷ Of the plans adopted as "proposed plans" for the public tour, all third-party plans, including AFFER,³⁰⁸ AFFR,³⁰⁹ Doyon, TCC, FNA, Sealaska, Ahtna,³¹⁰ and the Senate Minority Caucus³¹¹ included proposed senate pairings along with proposed house districts. V.3³¹² and V.4³¹³ as adopted did not include senate pairings.

Some of the third-party plans, adopted six days after the constitutional deadline, did include senate pairings. Further, the public had an opportunity to comment on all of the proposed plans during the Public Hearing Tour. Whether the Board was required under the Constitution to adopt senate pairings in addition to house pairings in the proposed plans appears to be an issue of first impression.

³⁰⁷ ARB 10708-10821.

³⁰⁸ ARB 1232-1293.

³⁰⁹ ARB 1294-1340.

³¹⁰ ARB 1435-1481.

³¹¹ ARB 1482-1528.

³¹² ARB 1341-1387.

³¹³ ARB 1388-1434.

In the Court's view, the Board's insistence that the third-party plans adopted after the deadline satisfy its obligation to provide for public hearings on the board's proposed plans is essentially an argument that "good enough" should satisfy the Constitution. But, *none* of the plans proposed and adopted by the board before the constitutional deadline contained any proposed senate pairings. And words have meaning. If the framers of the Constitution had intended 36 days to be good enough, then they would have said 36 days rather than 30 days.

This Court recognizes the public had an opportunity to comment on some third-party Senate pairings through the process, although none were proposed by the Board. The Senate pairing process is substantially more straightforward than the House map-drawing process.

On the other hand, the thirty-day deadline is intended to require the Board to receive and consider public comment in creating the full redistricting plan. To allow the Board to wait until the very end of the process to start senate pairings inevitably leads to the situation presented here – where the Board simply does not offer its proposed pairings for public comment. To the extent that the Board argues that Senate pairing proposals existed in the third-party maps, those maps were adopted after the constitutional deadline, did not necessarily have the same house districts, and did not provide the proposed pairings that East Anchorage challenges.³¹⁴

Some Plaintiffs have argued the constitutional language means the public is guaranteed a full 60-day comment period. There is some support for this view in the legislative history. To be sure, the limited legislative history available shows that the primary concern was that proposals be available for public comment on the tour. In developing the Amended section 10 in 1998, Mr. Sourant, Legislative Assistant to

³¹⁴ There is some indication that the AFFER proposal contained Senate pairings that paired South Muldoon with Eagle River. On review, the AFFER proposal does contain a House district, District 20, which is similar to the Board's District 20 which represents South Muldoon. However, the district it is paired with, District 19, has two distinct differences. First, it does not contain the vast majority of the most densely populated portion of Eagle River, as the other Eagle River House District carves this section. Second, District 19 contains a large portion of North Muldoon. Practically speaking, the AFFER senate proposal does not sever the South Muldoon and pair it with Eagle River in the same way the Board's proposal does. See ARB 38, 39, 1236, 1250.

Representative Brian Porter, one of the sponsors of the bill, “explained that when the census data is released, the board will have 30 days to come up with a proposed plan, if they can all agree on one. If they can’t agree on one plan, they can have alternative plans. Then, over the next 60 days after the first 30 days, there are public hearings around the state; and that is when the reapportionment board, by the end of that 60-day period, should agree upon its reapportionment plan and proclamation.”³¹⁵ There was no significant discussion about the nuances of time for public comment, but rather that the public hearings are key to the process.

While there was a short period of time in this case between the thirty-day deadline (September 9) and the date when the Board adopted the maps that actually went on the tour (September 17), there were no Senate pairings included in any of the Board’s versions. If the Board’s v.4, which was ultimately adopted (with some revisions), had contained senate pairing proposals, there could be a different conclusion as to whether the opportunity for public comment complied with Article 10. However, the failure to include any Senate pairings in the initial proposed maps led to a complete breakdown in the process for senate pairings when none were proposed for public consideration. This breakdown, coupled with Board’s decision to wait until November 8 to consider senate pairings, seems to have aided the ability to effectively spring the adoption of the Anchorage senate pairings not only on the public, but on certain members of the Board.

Because senate pairings must be offered in the “proposed plans” adopted within the constitutional deadline, the Board did not meet the requirements of Article VI, Section 10.

3. Failure to Hold Hearings on Proposed Senate Districts

East Anchorage also complains that the Board failed to hold public hearings on their senate pairings. In response, the Board argues the public did comment on possible senate pairings.

³¹⁵ Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-11 Side A No. 0491 (Feb. 6, 1998) (statement of Jim Sourant, Legislative Assistant to Rep. Brian Porter).

Article VI Section 10 contemplates that the public is to be afforded a meaningful opportunity to comment on proposed plans. It is also clear that the Board is to make a concrete proposal for the public to comment on. Though the Board is certainly not required to continue to hold meetings on every single revision, in this case, there was no revision process evident in the Board's decision-making relative to the Senate. There was also no clarity as to which Senate pairings were actually contemplated. Nothing concrete was ever proposed to the public for its consideration.

The Board took public testimony on November 8 before actually proposing any senate pairings.³¹⁶ After receiving testimony, the Member Bahnke proposed Senate pairings,³¹⁷ and Member Marcum discussed several maps she drafted of senate pairings.³¹⁸ Once Chairman Binkley determined that there was a majority, it was unclear, even to the Board members, which pairings had majority support. Board member Borromeo expressed confusion about the multiple maps that Member Marcum had discussed and uncertainty as to which map had majority support.³¹⁹ It seems apparent to the Court that the majority was not on a particular set of Anchorage Senate pairings, but on the one consistency among Board Member Marcum's proposed maps – splitting Eagle River and pairing North Eagle River with JBER.

Thus, there was no opportunity for the public to comment on the Senate pairings that were actually proposed by the members of the Board. There was no evolution or revision of Senate pairings that lacked additional public comment. The public had no meaningful chance to comment on the Senate pairings proposed by any board member, and there is even a lack of clarity as to which Senate pairings were actually proposed before the final pairs were adopted.

The Board's choice not to hold public hearings on Senate pairings it actually proposed on the final house map, and the subsequent choice to effectively rush those proposals to a majority vote, frustrates the basic tenants of Section 10. As discussed

³¹⁶ Board Meeting Minutes at 1 (Nov. 8-10, 2021), ARB 210.

³¹⁷ Board Meeting Transcript 164:20-173:9 (Nov. 8, 2021).

³¹⁸ Board Meeting Transcript 173:10-202:4 (Nov. 8, 2021).

³¹⁹ Board Meeting Transcript 202:10-205:4 (Nov. 8, 2021).

above, it would be absurd to conclude that the Board is not required to propose senate pairings by the deadline, leading to the possibility that it never proposes any, and then forces the pairings through at the last minute, as seems to have happened here. Yet, the Court acknowledges the tension between the need to have a meaningful opportunity to provide public comment, and the Board's need to complete the precursor house map. Without a nearly final house-map, it is understandably difficult for the Board to develop meaningful Senate pairings. But that practical tension does not absolve the board of its responsibility. Other than the Board's own timetable, there is no reason why the House map could not have been finalized two weeks before the deadline in order to allow meaningful time for public hearings on possible Senate pairings. It is not the Court's role to impose different deadlines. The deadlines are set by the Constitution. But, a meaningful process for public comment on the Senate pairings after the House map is finalized is required. Both the timeline and the policy enshrined in Section 10, that the Board have proposals to offer the public for comment, are frustrated where the Board, as it did here, is able to hide behind third-party senate proposals. Instead, it should be clear with the public about what pairings it is actually considering at the most meaningful point in the senate pairings process.

Consistent with this Court's conclusion that Board Members must make good-faith attempts to incorporate public testimony into the Board's final plan, the Board fell short of this requirement with regard to the Senate pairings. Considering the testimony that was submitted by the public that referenced Eagle River or East Anchorage being combined, both in reference to house and senate districts, the vast majority of both East Anchorage and Eagle River residents were strongly against splitting either region and combining one with the other.³²⁰ While each Board member is an Alaskan with knowledge about the State and its regions in their own right, that fact does not give the Board the discretion to make

³²⁰ See e.g., September 7-9, 2021 Board Meeting Minutes, ARB000167-ARB00170; November 5, 2021 Board Meeting Minutes, ARB000202-205, 207; November 8, 2021 Board Meeting Minutes, ARB000211-ARB000212; November 4, 2021 letter from Anchorage Assembly Leadership, East Anchorage Plaintiffs ex. 6002; ARB 003202-ARB003203, ARB 1802-1803, 1808, 1817, 1819-1820, 1826-27, 1830-31, 1836, 1840-41, 1849-50, 1855, 1863, 1870, 1872, 1875-76, 1901, 1908-09, 1919, 1923, 1929, 1934-35, 1938, 1941, 1944, 1948, 1950-51, 1954-56, 1965-66, 1971-76, 1980, 1985, 1994-96, 1998, 2013-14, 2021-22, 2045, 2083, 2095-98, 2101, 2132, 2134, 2149, 2151, 2153-54, 2156, 2162, 2165, 2169-70, 2177, 2181-83, 2187, 2194, 2203, 2220, 2227, 2235-36, 2239.

decisions based on personal preference when that preference is directly contrary to the overwhelming majority of public testimony. The Board offered no reasons as to why it acted against public opinion, beyond personal feelings and preferences. Again, the Board must make a good-faith effort to incorporate the clear weight of public testimony. That was not done when the time finally came to address senate pairings.

The Court acknowledges there are situations, even among other Plaintiffs in these consolidated 2021 cases, where the Board was forced to make a decision contrary to the public testimony, and that decision is upheld. However, the Court also considers whether, in the face of public testimony, the Board has taken a “hard look” and made a good faith effort to incorporate public testimony into its decisions.³²¹

Here, it was entirely possible for the Board to incorporate public testimony; however, it chose to ignore that testimony in favor of a strong personal preference by one board member. In fact, Member Bahnke presented a Senate map that adhered to the will expressed by the public, and her map was practically brushed aside for the proposed maps that did not.³²² This process did not comply with the requirement that the Board take a “hard look” at the issue in light of nearly universal public opinion from both Eagle River residents and East Anchorage residents insisting that Eagle River and East Anchorage be kept together in their own respective senate districts. It was clearly possible, and a minimal burden on the Board to do so.

Therefore, the Court concludes that the Board's Anchorage Senate pairings do not comply with the requirements of Article VI, Section 10.

³²¹ As discussed elsewhere, this situation is in contrast to Valdez, where the Board made a good faith effort to district Valdez in accordance with public testimony, but the realities of mapping made the public's wishes difficult to honor without sacrificing other areas of Alaska to an arguably greater extent.

³²² Board Meeting Transcript 164:20 – 173:1, 202:5 – 205:21 (Nov. 8, 2021).

C. Equal Protection

1. Alaska's Equal Protection Law

East Anchorage Plaintiffs bring an Equal Protection claim under the Alaska Constitution. “In the context of voting rights in redistricting and reapportionment litigation, there are two basic principles of equal protection.”³²³ These principles are that of “one person, one vote –the right to an equally weighted vote –and of fair and effective representation – the right to group effectiveness or an equally powerful vote.”³²⁴ The former is quantitative, or purely numerical, in nature; the latter is qualitative.³²⁵

Alaska’s equal protection analysis is a balancing test,³²⁶ which requires the Court to consider the weight of the interest impaired, which guides the determination of the standard of review,³²⁷ and the purpose served by the act that is alleged to violate the Equal Protection clause.³²⁸ The Supreme Court in *Kenai* has concluded that the right to an equally powerful and geographically effective vote in the state legislature represents a significant constitutional interest, though not a fundamental right.³²⁹

Alaska employs a sliding scale approach in determining the level of scrutiny to be applied.³³⁰ This scale ranges from a relaxed level of scrutiny to strict scrutiny.³³¹ “Based on the nature of the right, a greater or lesser burden will be placed on the state to show that the classification has a fair and substantial relation to a legitimate governmental objective. Where fundamental rights or suspect categories are involved, the results of this test will be essentially the same as requiring a ‘compelling state interest’; but, by

³²³ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1366 (Alaska 1987).

³²⁴ *Id.* at 1365 (citing *Davis v. Bandemer*, 478 U.S. 109, 166-167, 106 S.Ct. 2797, 2828, 92 L.Ed.2d 85, 127-28 (1986) (Powell, J., dissenting)).

³²⁵ *Hickel v. Southeast Conference*, 846 P.2d 38, 49 (Alaska 1992) (citing *Kenai Peninsula Borough*, 743 P.2d at 1366-67).

³²⁶ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1370 (Alaska 1987).

³²⁷ *Id.* 1371.

³²⁸ *Id.*

³²⁹ *Id.* 1371-72.

³³⁰ *State v. Ostrosky*, 667 P.2d 1184, 1192 (Alaska 1983)

³³¹ *Id.*

avoiding outright categorization of fundamental and nonfundamental rights, a more flexible, less result-oriented analysis may be made.”³³²

In evaluating state equal protection claims where the interest in an equally powerful vote is involved, the Alaska Supreme Court in *Kenai* determined that the relevant inquiry is whether “the Board intentionally sought to dilute the voting power of Anchorage voters disproportionately.”³³³ If the Court determines that the Board created the challenged districts with discriminatory intent, the Board’s “purpose in redistricting will be held illegitimate unless that redistricting effects a greater proportionality of representation.”³³⁴

The Court employs a neutral factors test to assess the legitimacy of the Board’s purpose in creating a Senate district.³³⁵ The Board’s purpose would be illegitimate if it diluted the power of certain voters “systematically by reducing their senate representation below their relative strength in the state’s population.”³³⁶ In making this assessment, the Court looks to the Board’s process in making its decision as well as the substance of the decision.³³⁷ The Court will find suggestive of illegitimate purpose any secretive procedures employed by the Board, evidence of regional partisanship, and the existence of district boundaries which “meander and selectively ignore political subdivisions and communities of interest.”³³⁸

Upon a finding of discriminatory intent, the Board’s purpose is to be held illegitimate if the Board cannot show that any intentional discrimination leads to “a greater proportionality of representation.”³³⁹ In the event that the Court finds the Board’s purpose to be illegitimate, it becomes unnecessary to evaluate whether a substantial relationship exists between the Board’s means and ends.³⁴⁰

³³² *Id.* at 1193 (citing *State v. Erickson*, 574 P.2d 1, 11–12 (Alaska 1978)).

³³³ *Kenai Peninsula Borough*, 743 P.2d at 1372.

³³⁴ *Id.*

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ *Id.*

³³⁹ *Id.*

³⁴⁰ *Id.* at 1373 n. 40. (“[S]ince intentional geographic discrimination in reapportionment is justifiable only if

The Court does not “consider any effect of disproportionality de minimus when determining the legitimacy of the Board’s purpose.”³⁴¹ However, the Court may consider whether the degree of disproportionality is de minimus in determining relief.³⁴²

Plaintiffs in *Kenai* challenged the Board’s decision to create Senate District E, which was explicitly crafted in order to prevent the creation of another Anchorage Senate seat.³⁴³ The Court did not assess the Board’s process as the Board’s intent was discriminatory on its face in outright designing Senate seat E in order to prevent an additional Anchorage senate seat in the legislature.³⁴⁴

2. Analysis

The East Anchorage Plaintiffs argue the choice to split Eagle River and pair one Eagle River House district with Muldoon dilutes the voting power of the Muldoon voters and violates Alaska’s Equal Protection Clause.

The interest impaired, like in *Kenai*, is the interest of voters in South Muldoon to have their votes protected from disproportionate dilution by the votes of Eagle River residents. This is a significant constitutional interest that, under *Kenai*, requires the Board to determine whether the Board intentionally discriminated with legitimate purpose.³⁴⁵

a) The Board’s Purpose (Intent)

The Court now looks to the Board’s purported purpose in pairing House District 21 (South Muldoon) with House District 22 (Eagle River Valley) to create Senate District K, and House District 23 (JBER) with House District 24 (North Eagle River/Chugiak) to create Senate District L. The East Anchorage Plaintiffs presented credible expert testimony from Dr. Chase Hensel, a respected local anthropologist. According to Dr.

greater proportionality in geographic representation in the legislature will result therefrom, proof of a legitimate purpose will normally be synonymous with proof of a substantial relationship between the Board’s means and ends [t]he last two parts of the test therefore merge.”).

³⁴¹ *Id.*

³⁴² *Id.* at 1373.

³⁴³ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1357, 1372 (Alaska 1987).

³⁴⁴ *Id.* at 1372.

³⁴⁵ *Kenai Peninsula Borough*, 743 P.2d at 1371-72.

Hensel the Muldoon community, comprised of House Districts 20 and 21, is a “community of interest”.³⁴⁶ Further, Eagle River, comprised of House Districts 22 and 24, is its own community of interest.³⁴⁷ In crafting Senate Districts, the Board does not need to consider socio-economic integration, but it must still create Senate districts that are compact and contiguous.³⁴⁸ Generally, this legal requirement was articulated to the Board by counsel to mean they must be made up of two house districts that are physically touching. To be sure, the boundaries of House District 21³⁴⁹ and House District 22³⁵⁰ are touching, but this itself does not mean that the Board did not create these districts with illegitimate purpose.

In determining whether the Board crafted the challenged senate seats with illegitimate purpose, the Court looks to whether there were secret procedures in the contemplation and adoption of these senate districts, whether there is evidence of partisanship, and whether the adopted senate boundaries selectively ignore political subdivisions and communities of interest.³⁵¹

On September 9, 2021, the Board’s counsel, Mr. Singer, was asked whether the Board’s proposed plan was required to include Senate districts. Mr. Singer responded that the Constitution is “silent” on that issue, and advised the Board that it had discretion as to the timing.³⁵² Regarding the legal requirement for Senate pairings, Mr. Singer advised that Senate districts are to be made up of House districts that are contiguous,³⁵³ and that Senators should “be able to walk across their districts.”³⁵⁴ Additionally, Singer noted that “Certainly you’re going to hear from the public, and that – and that public input may be helpful to the board as it thinks about Senate pairings.” Eric Sandberg recalled that in the last cycle, senate pairings were not made in the draft plans, but were made in

³⁴⁶ Affidavit of Dr. Chase Hensel, Ph.D. at 18 ¶ 73.

³⁴⁷ Affidavit of Dr. Chase Hensel, Ph.D. at 18 ¶ 73.

³⁴⁸ *Kenai Peninsula Borough*, 743 P.2d at 1365.

³⁴⁹ 2021 Board Proclamation Anchorage (ARB 13).

³⁵⁰ 2021 Board Proclamation District 23-L (ARB 41).

³⁵¹ *Kenai Peninsula Borough*, 743 P.2d at 1365 n. 21.

³⁵² Board Meeting Transcript 162:4-10 (Sept. 9, 2021).

³⁵³ Board Meeting Transcript 164:2-12 (Sept. 9, 2021).

³⁵⁴ Board Meeting Transcript 164:11-12 (Sept. 9, 2021)

the final plan. Binkley noted that it would be instructive to review the third-party plans that will be presented on September 17, 2021.”³⁵⁵

Marcum testified that the Board members “would not have access to political data, that we would not have it on our computers, that we would not access it.”³⁵⁶ However, on November 7, 2021 at 6:47pm, the night before the scheduled Board meeting regarding senate pairings, Mr. Ruedrich emailed the Board at its designated email address as well as directly to Members Marcum and Simpson separately, incumbent information for each of the house districts.³⁵⁷

At the November 8, 2021 Board meeting, Board Staff member Juli Lucky informed the Board and Mr. Ruedrich that the incumbent information had been redacted from the email correspondence before its presentation to the Board and public. When asked about her receipt of the email, Marcum responded that she did not recall receiving the document on the night it was purportedly emailed but that it could have been provided to Board members in a compilation or at a later date.³⁵⁸ Member Marcum testified that while she had access to incumbent information provided to the Board by Ruedrich, she “didn’t bother looking at the incumbent information,” and explained that such information was “irrelevant to the process that we were tasked with, and it just muddled the waters...”³⁵⁹

When the unredacted incumbent information document was presented to Marcum in her deposition, she claimed she did not know what the information on the document proposed and that she could “honestly say this is the first time that I have looked at any of the names that are on [the] document.”³⁶⁰ However, Marcum also admitted that she went to her computer to pull up the unredacted version of the incumbent information when speaking with member Simpson. When asked why she pulled up that version when Simpson was holding the redacted version, as opposed to just looking over Simpson’s shoulder at that redacted version, Marcum responded, in part that she looked at it

³⁵⁵ September 7-9, 2021 Board Meeting Tr., ARB009985-ARB009988.

³⁵⁶ Marcum Depo., p. 198, lines 1-21.

³⁵⁷ Ruedrich Depo., p. 14:19-15:10; November 7, 2021 email correspondence from Ruedrich to Board, Ex. 6005.

³⁵⁸ Marcum Depo., Ex. 11; Marcum Depo., p. 202, lines 7-25.

³⁵⁹ Marcum Depo., Ex. 11; Marcum Depo., p. 200, lines 11-14.

³⁶⁰ Marcum Depo., p. 206, lines 21-25; p. 207-211.

electronically because that is “her preferred way of reading.”³⁶¹ In depositions, Marcum further confirmed she reviewed the unredacted materials sent by Ruedrich containing the incumbent information on November 8, 2021, during her conversation with Simpson during the senate pairing deliberations.³⁶²

On November 9, 2021, following public testimony on Senate pairings, Member Marcum presented her proposals for senate pairings after the Board took public testimony.³⁶³ She noted, “And I will say that I started with one premise that I think is one of the most important premises that we have ignored throughout this process. . . . And that is the very natural both physical, as well as socioeconomic connection between JBER and Eagle River. . . . So that is the one thing that’s common in all four of these maps.”³⁶⁴ In making this pairing, Board Member Marcum insisted that she began with what she defines as a “natural connection” between Eagle River and JBER.³⁶⁵ Board Member Marcum, when asked by Board Member Bahnke about why she did not pair the two Eagle River House districts with each other, responded that “Eagle River has its own two separate House districts. *This actually gives Eagle River the opportunity to have more representation*, so they’re certainly not going to be disenfranchised by this process.”³⁶⁶ Member Bahnke responded by asking, “So you’re saying that by splitting Eagle River, they would have more representation?”³⁶⁷

Member Marcum continually insisted that she believed Eagle River has “the most direct socioeconomic ties with the military base of JBER.”³⁶⁸ In response, Member Borromeo stated that while those in Eagle River may frequent areas of East Anchorage, East Anchorage residents do not necessarily frequent Eagle River.³⁶⁹ Following a

³⁶¹ Marcum Depo., p. 217, lines 1-5.

³⁶² Marcum Depo. at 215:6-217:5.

³⁶³ See generally Board Meeting Transcript 174:1-206:23 (Nov. 8, 2021).

³⁶⁴ November 8, 2021 Board Meeting Tr., p. 174, ARB006670.

³⁶⁵ Board Meeting Transcript 174:4-25, 175:1-6 (Nov. 8, 2021).

³⁶⁶ Board Meeting Transcript 175:16-25, 176:1-10 (Nov. 8, 2021) (emphasis added).

³⁶⁷ Board Meeting Transcript 176:13-15 (Nov. 8, 2021).

³⁶⁸ Board Meeting Transcript 176:24-25, 177:1 (Nov. 8, 2021).

³⁶⁹ Board Meeting Transcript 189:15-22 (Nov. 8, 2021).

suggestion by Board Member Marcum that there may be questions regarding a “race issue,” Mr. Singer suggested such questions should be discussed in executive session.³⁷⁰

Simpson then responded to criticism from Bahnke and Borromeo against Marcum’s pairings and defended Marcum’s pairings stating, “Bethany has articulated a number of reasonable, logical connections in support of the pairings she’s suggesting. Certainly they’re not the only ones, and they are things about which reasonable people could differ . . . in the end we have to pick one or two or whatever and – make a decision. But I don’t think it’s right to say that there’s no reasonable basis for those. There’s reasons, and she’s articulated them.”³⁷¹ At his deposition, Simpson confirmed his opinion of what is “reasonable” is defined at least in part as “having a reason”.³⁷²

In the midst of discussion, where several senate pairings that split Eagle River and split the Muldoon area were offered by Member Marcum, Chairman Binkley states, “So I get a sense that there’s a majority of, not consensus for the plan that Bethany has brought forward. If that’s the case, I think we should move on to the last one that we got, which is Fairbanks.”³⁷³ Members Borromeo and Bahnke then expressed confusion as to which specific plan he was referring to that had a consensus, inquiring as to why the Board was moving on without a consensus on Anchorage.³⁷⁴ Chairman Binkley expressed that he had “heard it articulated from three of the members,” including the Chairman, that they thought Member Marcum’s map was “most reasonable.”³⁷⁵ The public was not given an opportunity to comment on these proposed pairings.³⁷⁶

Following other discussion regarding Fairbanks pairings and district numbering,³⁷⁷ the Board entered an executive session for legal advice regarding the proposed Senate parings in Anchorage.³⁷⁸ The Board exited Executive Session and entered recess at 6:25

³⁷⁰ Board Meeting Transcript 199:2-25, 200:1-25, 201:1 (Nov. 8, 2021).

³⁷¹ November 10 Board Meeting Tr. p. 201:4-18, ARB 6697.

³⁷² Simpson Depo., pp. 239:8-240:14.

³⁷³ Board Meeting Transcript 202:5-9 (Nov. 8, 2021).

³⁷⁴ Board Meeting Transcript 202:10-13, 204:7-9 (Nov. 9, 2021).

³⁷⁵ Board Meeting Transcript 204:10-24 (Nov. 8, 2021).

³⁷⁶ Board Meeting Minutes 1-6 (Nov. 8-10, 2021); ARB 210-215

³⁷⁷ Board Meeting Transcript 206:3–214:14 (Nov. 8, 2021).

³⁷⁸ Board Meeting Transcript 215:18-25, 216:1-13 (Nov. 8, 2021).

p.m., and explained that the Board would reenter Executive Session immediately the following morning at 9:00 a.m.³⁷⁹

On November 9, 2021, the Board entered Executive Session at 9:00 a.m. without a motion being made during public session.³⁸⁰ Upon exiting executive session on November 9, 2021, Chairman Binkley began explaining that the Board was facing many legal issues, and Board Member Marcum appears to cut the Chairman off in requesting to speak. Member Marcum then immediately moves the Board to adopt specific Senate pairings:

1. . . . (Audio commenced at Time Stamp 1:33:55)
2. . . . CHAIRMAN JOHN BINKLEY: Okay. We are going to come
3. back into public session. We've been in Executive
4. Session, kind of an extended one. A lot of legal issues
5. to go through as we kind of close in on finalization for
6. the Senate pairings that we've been working on this week
7. and -- Yeah, Bethany?
8. . . . BOARD MEMBER BETHANY MARCUM: Yeah, Mr. Chairman,
9. I'd like to move that we accept the following Senate
10. pairings for Anchorage.
- . . .
22. . . . BOARD MEMBER BETHANY MARCUM: I move we accept
23. Senate pairings for Anchorage as follows: 9 -- District
24. 9 with District 10. District 11 with District 12.
25. District 13 with District 14. District 15 with District
1. 16. District 19 with District 20. Districts 23 with
2. District 17. Districts 18 with District 24. And
3. District 21 with District 22.³⁸¹

The motion passed on a 3-2 vote, with Members Borromeo and Bahnke voting no.³⁸² Board Member Borromeo then moved to reconsider the vote, stating in discussion on the motion that she strongly opposed pairing the South Muldoon house district and the Eagle River Valley district, stating she believed that those Senate pairings:

Open[] the Board up to an unfortunate and very easily winnable argument to partisan gerrymandering. The record is before many litigants . . . based on Member Marcum's own words yesterday that this gives Eagle River the

³⁷⁹ Board Meeting Transcript 217:3-25, 218:1-12 (Nov. 8, 2021).

³⁸⁰ Board Meeting Minutes at 6 (Nov. 8-10, 2021), ARB 215.

³⁸¹ Board Meeting Transcript 2:1-25, 3:1-3 (Nov. 9, 2021).

³⁸² Board Meeting Transcript 3:20-25, 4:1-10 (Nov. 9, 2021).

opportunity to – I quote – have more representation, so they're certainly not going to be disenfranchised by the process, unquote. I don't believe that any of the arguments that she put on the record, and more importantly, the sound – sound – legal advice that we got from counsel in Executive Session supports this pairing. It defies logic that we would do a minority reach into South Muldoon and pair it with a very right district eight miles away on a highway that crosses one mountain range and expect the court to believe with any satisfaction that we have satisfied public trust in the process. We have received mounds and mounds of testimony compared to a handful including Member Marcum's personal experience that Eagle River is very integrated with South Muldoon. The natural pairing, if she wanted to do Muldoon would be North Muldoon, but she couldn't get to North Muldoon, so she took South Muldoon --³⁸³

21. . . . CHAIRMAN JOHN BINKLEY: I would just --
22. . . . BOARD MEMBER NICOLE BORROMEO: -- I'm not done --
23. . . . CHAIRMAN JOHN BINKLEY: Yeah, but I don't think --
24. . . . BOARD MEMBER NICOLE BORROMEO: -- I am not done --
25. . . . CHAIRMAN JOHN BINKLEY: -- we should attack members
1. . personally --
2. . . . BOARD MEMBER NICOLE BORROMEO: I am not. I am -- I
3. . am stating this on the record --
4. . . . CHAIRMAN JOHN BINKLEY: -- and I think you should be
5. . very cautious about that --
6. . . . BOARD MEMBER NICOLE BORROMEO: I am stating this on
7. . the record.
8. . . . CHAIRMAN JOHN BINKLEY: -- I think you should be
9. . cautious about attacking --
10. . . . BOARD MEMBER NICOLE BORROMEO: -- I appreciate what
11. . you're saying --
12. . . . CHAIRMAN JOHN BINKLEY: -- fellow members of the
13. . Board.
14. . . . BOARD MEMBER NICOLE BORROMEO: -- I appreciate what
15. . you're saying. I am going to finish though because this
16. . is discussion --
17. . . . CHAIRMAN JOHN BINKLEY: Be careful. Please.
18. . . . BOARD MEMBER NICOLE BORROMEO: I am being careful.
19. . And you know what? She should have been careful when she
20. . exposed this Board --
21. . . . CHAIRMAN JOHN BINKLEY: Please --
22. . . . BOARD MEMBER NICOLE BORROMEO: -- to liability
23. . yesterday. John.
24. . . . CHAIRMAN JOHN BINKLEY: Please, let's not make this
25. . personal --
1. . . . BOARD MEMBER NICOLE BORROMEO: Stop it. Let me
2. . finish, and I'll wrap it up.

³⁸³ Board Meeting Transcript 8:20-25, 9:1-20 (Nov. 9, 2021).

- 3· . . . You have opened us up to a ton of legal liability,
- 4· and I want that vote reconsidered because of -- it is
- 5· partisan gerrymandering --³⁸⁴

Board Member Binkley then called the question to end discussion and proceed to vote on reconsideration as Board Member Bahnke expressed that she did not have a chance to offer her discussion on the motion.³⁸⁵ After asking to be allowed to make a statement after the motion was voted on, Chairman Binkley determined that would be appropriate.³⁸⁶ The motion to call the question passed 3-2, and the motion to reconsider went to a vote.³⁸⁷ It appears a member of the public who was at the meeting in person attempted to speak and Chairman Binkley informed the public that the Board was not taking comments at that time.³⁸⁸ The motion to reconsider failed, also 3-2 with Board Members Borromeo and Bahnke voting "yes."³⁸⁹ Board Member Bahnke then stated:

The action that was just taken came as a complete surprise to me. I thought we had achieved consensus. I will accept the outcome for now. I had offered a alternative to the map that was just adopted for the Senate pairings that kept Eagle River intact, kept Muldoon intact, eliminated questions around dilutions of minority voters' ability to elect somebody into office. It also had paired Government Hill with the military base. I won't go on and on and on. I will say that there are times when you just have to say, "the Emperor has no clothes," and I think today is one of those days. And while not necessarily silencing completely the voters in Muldoon, one of the lowest income, most racially diverse parts of our community and our state, this has the effect of muffling their voices. And I appreciate the chance to have been heard here, but what happened here came as a complete surprise. And I don't appreciate that.³⁹⁰

On November 10, 2021, after signing the Proclamation in opposition, Member Borromeo stated the following:

I want to begin by reminding Alaskans here today and listening across the state what the goal of redistricting is as defined by the framers of our

³⁸⁴ Board Meeting Transcript 9:21-25, 10:1-25, 11:1-5 (Nov. 9, 2021); see also Board Meeting Video at 1:33:55 (Nov. 9, 2021) Filename JRDB-20211109-0900.

³⁸⁵ Board Meeting Transcript 11:6-20 (Nov. 9, 2021).

³⁸⁶ Board Meeting Transcript 12:7-13 (Nov. 9, 2021).

³⁸⁷ Board Meeting Transcript 12:14-25, 13:1-6 (Nov. 9, 2021).

³⁸⁸ Board Meeting Transcript 13:18-22 (Nov. 9, 2021); see also Board Meeting Video at 1:33:55 (Nov. 9, 2021) Filename JRDB-20211109-0900.

³⁸⁹ Board Meeting Transcript 13:6-25, 14:1-16 (Nov. 9, 2021).

³⁹⁰ Board Meeting Transcript 14:22-25, 15:1-14 (Nov. 9, 2021).

constitution and instructed by the Court in Hickel. The goal of all apportionment plans is simple: a true, just, and fair representation. Regretfully, the Board lost sight of this goal yesterday and in the process, we have failed Alaskans and we abused the public's trust and state government. Over the last 90 days, I've listened to Alaskans in 23 out of the 26 communities that the board held public hearings in. I would have been to all 26 communities; I had to come off the Redistricting Board, though, for about 36 hours and fly to Washington DC to testify in Senate judiciary about the importance of voting rights and the VRA for the Native community. When I came back together with the Board, we used the local knowledge and insights of Alaskans to draw a fair House map. I'm happy to report that the Board took the same approach early this week when it came to the Senate pairings. We abandoned that approach, though, for Eagle River and East Anchorage. When it comes to these pairings, I want to offer five legal and constitutional observations.

First, the most reasonable Senate pairing for Eagle River would have been to join House districts 22 and 24. These districts share the same streets, neighborhoods, businesses, schools, watersheds, and more, including electrical co-ops. Eagle River has also been trying to exit the Municipality of Anchorage for some time now. Second point, there is no populated area – not even a military gate – that connects Districts 24 and 23. The only way that this part of Eagle River, which is actually a majority of Chugiak, Birchwood, Peter Creek, and the Native Village of Eklutna, can even access the military base is to get through the other part of Eagle River located in District 22. Member Marcum failed to offer a compelling reason not to pair the two Eagle River districts or the two Muldoon districts, besides for her subjective belief that the board failed to consider pairing JBER and Eagle River into a single House seat. We did, we considered it, and we firmly rejected it on two grounds: compactness and public testimony. Moreover, there was limited – almost no debate or justification really – for drawing these Senate districts this way on the record, and I apologize to Alaskans for that.

It's also worth noting that the now paired South Muldoon and Eagle River, through Senate Seat K, do not have a single road connected meaning the residents in District 21 have to drive almost four miles down Muldoon Road through District 20 before even reaching the Glenn highway and then having to drive another twelve miles north before they can exit into Eagle River. This part of Muldoon (the southern part) is not a bustling hot bedded economic enterprise. It's almost entirely residential and for us to pull the wool over the state's eyes and believe that this part of Muldoon is traveling this far to shop, play, and recreate is absurd.

My fourth point is yesterday it was told to me that I had already "won too much" and now it was time that I step aside and I allow others to get some wins. This isn't about me as an individual, this is about fair maps for our state. I didn't win anything; Alaska lost. I presented and I defended fair maps that stand on their own merit because I put in the time and energy, and I

can defend my maps and will defend my maps in the next round of litigation. I thank Member Bahnke for standing alongside and accepting natural pairings of these districts. And second, even if it's true – whatever that means – that I had already won too much, it's hardly a reason for rejecting the natural pairings of Eagle River as a Senate district and North and South Muldoon themselves as a Senate district.

Finally, Member Marcum said that splitting Eagle River into two Senate seats would extend the electoral influence of the community resulting in “more representation” – I played that for you, and you're going to hear it for the next several months because everybody that sues us is going to play it over and over again, too. So, far from being compelling rationale, her observation exposes the board to claims of racial and partisan gerrymandering in North and South Muldoon which contains some of the highest minority voting age population concentrations in Anchorage, and one of the most diverse neighborhoods in our country. The publicly stated goal of expanding Eagle River's influence into the legislature is not only an example of partisan gerrymandering, it is a direct path for future litigants to take us on in suing us.

In closing, I want to sincerely thank Alaskans from Utqiagvik to Ketchikan, for their time and attention to the solemn constitutional duty; particularly the scores of rural Alaskans who welcomed the board into their communities through the pandemic. The type of hospitality you've shown us is something that is only experienced in Bush Alaska, and I mean that. Members of the Board, the constitution demands fairness from us and nothing less. I remain dedicated to drawing fair maps with you in the next round. An unfairness of gerrymandering in even two Senate districts is not meeting our constitutional mandate. The federal vote dilution and numerous violations that have occurred in Eagle River and Muldoon over the past two days have prevented me today from signing the proclamation. I very much look forward to for being deposed by opposing counsel and I pray that litigation is swift and just.³⁹¹

Bahnke stated the following on November 10, 2021, after signing the Final Proclamation in opposition:

As I reflect on the process – it's been 15 months of us putting our heads together. In terms of the process, I think what we saw throughout the process, for example, I started mentioning the way that the board took action to end discussion and debate yesterday which I think, procedurally and technically, was contrary to Robert's Rules of Order and I'm not expert on Robert's Rules of Order, but I don't think that was unintentional because as a former legislator, you're very well versed in Robert's Rules of Order. I'm not going to challenge that. It is symbolic of the greater issue that is our end outcome. Our outcome has resulted in the silencing or muzzling or muffling – whatever term you want to use – a particular segment of Alaskan

³⁹¹ Board Meeting Transcript 16:18-21:1 (Nov. 10, 2021).

voters. Again, throughout the process there was even at one point where the legitimacy of my authority to speak on behalf of Alaska Natives in my own district was at play and I've attempted to walk through this process in a manner that maintains decorum in order to get us moving along. I thought the ends would justify the means, so I put up with a lot in terms of where I felt I was being silenced. The process played out on a micro level of the silencing of a particular segment of our population. I was discouraged yesterday, but I'm actually encouraged today. Had we adopted Senate pairings that were just, that would have been a great victory for the state, but I think the greater victory that I see playing out here is that it is shining the light of the need for Alaskans to expect and deserve better from, not only our elected officials, but also our appointed officials. Alaskans are now witnessing, on a micro level, what is happening at a statewide level. We deserve better as Alaskans whether we're Republicans, Democrats, Independents, Undeclared, rural Alaskans, urban Alaskans, brown, black, yellow, white – at the end of the day we're all Alaskans and I'm not going to end on a discouraged note. If anything, this has bolstered, not just me – because this is happening to me on a micro level, - but I think that it is going to shed a bigger light and motivate people on a statewide level to expect fairness and uphold the tenants of our democracy.³⁹²

Borromeo testified that she did not believe the Board considered the best option – pairing the Eagle River house districts together – because Marcum did not present it as an option.³⁹³ Further, the two Board members who wanted to discuss the non-Marcum options were precluded from doing so by Binkley, who did not allow for such discussion, or even any on Marcum's proposals.³⁹⁴

While the Court does not make this finding lightly, it does find evidence of secretive procedures evident in the Board's consideration and deliberation of the Anchorage Senate seat pairings. Initially, in contrast to the process to craft house seats, overwhelming public testimony against splitting and combining Eagle River and Muldoon seemed to be all together ignored.³⁹⁵ The public portion of the record leads to only one

³⁹² November 8-10, 2021 Board Meetings Minutes, ARB 220 – ARB 221; November 10, 2021 Board Meeting Tr. pp.21-23.

³⁹³ Borromeo Depo., pp. 31:14-32:14.

³⁹⁴ Borromeo Depo., pp. 32:15-21, 37:17-38:2.

³⁹⁵ See e.g., September 7-9, 2021 Board Meeting Minutes, ARB 167-ARB 170; November 5, 2021 Board Meeting Minutes, ARB 202-205, 207; November 8, 2021 Board Meeting Minutes, ARB 211- ARB 212; November 4, 2021 letter from Anchorage Assembly Leadership, East Anchorage Plaintiffs ex. 6002; ARB 003202-ARB003203, ARB 1802-1803, 1808, 1817, 1819-1820, 1826-27, 1830-31, 1836, 1840-41, 1849-50, 1855, 1863, 1870, 1872, 1875-76, 1901, 1908-09, 1919, 1923, 1929, 1934-35, 1938, 1941, 1944, 1948, 1950-51, 1954-56, 1965-66, 1971-76, 1980, 1985, 1994-96, 1998, 2013-14, 2021-22, 2045, 2083, 2095-98, 2101, 2132, 2134, 2149, 2151, 2153-54, 2156, 2162, 2165, 2169-70, 2177, 2181-83, 2187, 2194, 2203,

reasonable inference: some sort of coalition or at least a tacit understanding between Members Marcum, Simpson, and Binkley. All three appeared to agree on all four of Member Marcum's maps with little public discussion.³⁹⁶ Most surprising was that at that time, it is unclear in the transcript, and was apparently also unclear to Member Borromeo, which of Member Marcum's maps the Board had apparently reached a majority on when the deliberative discussion was ended.³⁹⁷ It seems that what the three Board Members had reached a majority was the only element of the map that was consistent between them: that Eagle River was split and North Eagle River was paired with JBER. That confusion is highlighted in the Chairman's choice to move on from Anchorage Senate pairings in the midst of deliberations to talk about Fairbanks to the surprise of Members Borromeo and Bahnke.³⁹⁸ There was no further public deliberation regarding Anchorage Senate pairings after this point, yet three Board members, the only three Board Members who signed the final proclamation in support, seemed to at some point understand which set map of senate pairings to offer for adoption among the four.³⁹⁹

The Court finds this all the more suspect when the Board enters into an executive session for the remainder of November 8, and then for the morning of November 9, and upon reentering public session, Board Member Marcum moves the Board to accept particular pairings so immediately, she appeared to nearly interrupt Chairman Binkley as he opened the public meeting.⁴⁰⁰ This evidence not only secretive procedures, but suggests that certain Board members came to some kind of consensus either during executive session, or altogether outside of the meeting processes. While the Court stops short of a finding that this happened, the Court does see ample evidence of secretive process at play. Further, where the Court is left with such an impression, it is undeniable that these actions have eroded the public trust in the fairness and openness of the redistricting process.

2220, 2227, 2235-36, 2239.

³⁹⁶ Board Meeting Transcript 202:5-204:24 (Nov. 8, 2021).

³⁹⁷ Board Meeting Transcript 202:5-205:21 (Nov. 8, 2021).

³⁹⁸ Board Meeting Transcript 202:5-205:21 (Nov. 8, 2021).

³⁹⁹ Board Meeting Minutes at 1 (Nov. 8-10, 2021), ARB 210; Board Meeting Transcript 201:4-18, 202:5-9, 204:18-25 (Nov. 8, 2021).

⁴⁰⁰ Board Meeting Transcript 2:1-25, 3:1-3 (Nov. 9, 2021).

Quite illuminating as well are the statements of Board Members Borromeo and Bahnke following the vote to adopt the Anchorage Senate pairings. Both members express surprise and/or outrage at the decision to adopt the Anchorage Senate pairings, as they were adopted so immediately after executive session. In particular, both members specifically took issue with the decision to split Eagle River into two Senate seats, and pair one of them with South Muldoon. Both members went as far as to call it “naked gerrymandering” and highlighted the contrast between the process that led up to the Board adopting the Senate pairings and the process the Board adhered to in adopting the remainder of the House and Senate maps.

The Court also expresses serious concern about any conversation about who “won” or lost.⁴⁰¹ The framers of the 1998 amendments to Article VI intended that partisanship be removed from the Redistricting process to the extent possible.⁴⁰² This process is not to concern “wins” and “losses” for particular political parties, but creating a redistricting map to the extent that is fair and treats all Alaskans equally. The Board seems to have articulated its understanding of this in the public sessions, but there are indications that there were times where the Board engaged in partisan decision making behind closed doors. To the extent that this may have happened, it is not acceptable.

While justification for pairing North Eagle River and JBER was strongly contested by other Board members, there was some justification provided for uniting Districts 24 and 23.⁴⁰³ However, there is no real justification on the record that explains why the Muldoon community of interest was split and partially paired with Eagle River beyond the fact that their borders are contiguous and Eagle River residents travel to Muldoon,⁴⁰⁴ though Muldoon residents do not regularly travel to Eagle River.⁴⁰⁵ The Court is left with the impression that, where the North Eagle River/JBER pairing was deliberated and at

⁴⁰¹ Board Meeting Transcript 19:3-17 (Nov. 10, 2021).

⁴⁰² Minutes, H. Judiciary Comm. Hearing on H.J.R. 36, 20th Leg., Tape 97-76 Side A No. 1874 (May 5, 1997) (statement of Rep. Brian Porter) (“I would think that it would be appropriate to try to get a procedure to put in place a board that would look at redistricting from a position of what is the most appropriate – under the law – district to put in place for the betterment of the voters of the state of Alaska, instead of, ‘How much partisan gerrymandering can we do and get away with?’”).

⁴⁰³ Board Meeting Transcript 174:4-25, 175:1-6, 181:19-25, 182:1-14 (Nov. 8, 2021).

⁴⁰⁴ Board Meeting Transcript 187:19-25, 188:1-25, 189:1-12 (Nov. 8, 2021).

⁴⁰⁵ Board Meeting Transcript 189:15-22 (Nov. 8, 2021); Affidavit of Dr. Chase Hensel, Ph.D. at 5 ¶¶25-26.

least explained, the Eagle River Valley/South Muldoon was ultimately a down-the-road consequence of the North Eagle River and JBER pairing. How intentional that particular pairing was is unclear. Though Ms. Borromeo makes another illuminating statement that in apparently deliberating a North Eagle River senate pairing outside of public session, it was recognized that it was not possible to “get to North Muldoon,” so instead South Muldoon was paired.⁴⁰⁶ This also implicates secretive procedures in making that pairing. Further, despite Board Member Marcum’s arguments to the contrary, it is clear to the Court that the vast majority of public commenters were in favor of keeping Eagle River and Muldoon, both communities of interest, together in their own respective Senate seats.⁴⁰⁷

While Member Marcum provided justification, partially her own personal statements, as to how Eagle River residents frequent the Muldoon area,⁴⁰⁸ Board Member Borromeo’s comment supported by Dr. Hensel’s testimony that this connection does not exist going the other way is well taken. There is ample public comment, as well as testimony during trial, that Eagle River and Muldoon are respective “communities of interest,” with little convincing information to the contrary. The Court sees that the Senate Districts ignore the Muldoon and Eagle River communities of interest with very little justification.

The record also provides evidence of regional partisanship. Dr. Hensel testified that South Muldoon is a swing district, though it does lean Republican, while Eagle River is firmly Republican.⁴⁰⁹ This usurps South Muldoon’s voting strength in the event it chooses to elect a Democratic senator.⁴¹⁰ As clarified at trial, South Muldoon can also

⁴⁰⁶ Board Meeting Transcript 8:20-25, 9:1-20.

⁴⁰⁷ See e.g., September 7-9, 2021 Board Meeting Minutes, ARB 167-AR 170; November 5, 2021 Board Meeting Minutes, ARB000202-205, 207; November 8, 2021 Board Meeting Minutes, ARB 211- ARB 212; November 4, 2021 letter from Anchorage Assembly Leadership, East Anchorage Plaintiffs ex. 6002; ARB 003202-ARB003203, ARB 1802-1803, 1808, 1817, 1819-1820, 1826-27, 1830-31, 1836, 1840-41, 1849-50, 1855, 1863, 1870, 1872, 1875-76, 1901, 1908-09, 1919, 1923, 1929, 1934-35, 1938, 1941, 1944, 1948, 1950-51, 1954-56, 1965-66, 1971-76, 1980, 1985, 1994-96, 1998, 2013-14, 2021-22, 2045, 2083, 2095-98, 2101, 2132, 2134, 2149, 2151, 2153-54, 2156, 2162, 2165, 2169-70, 2177, 2181-83, 2187, 2194, 2203, 2220, 2227, 2235-36, 2239.

⁴⁰⁸ Board Meeting Minutes 181:19-25, 182:1-14, 198:13-200:23 (Nov. 8, 2021).

⁴⁰⁹ Affidavit of Dr. Chase Hensel, Ph.D. ¶¶ 70-71; Trial Transcript 59:19-23 (Jan. 21, 2022).

⁴¹⁰ Affidavit of Dr. Chase Hensel, Ph.D. ¶¶ 70-72, 74.

be seen as a “highly competitive” district.⁴¹¹ However, according to the evidence in the record, there would be no competition in the election of its senate seat.⁴¹² Further, Member Marcum stated on the record that doing so would give Eagle River “more representation.”⁴¹³ Thus, it is apparent the Board understood the practical result of splitting Eagle River into two Senate districts.

This Court agrees with Ms. Marcum that Senate District K gives Eagle River more representation. However, it appears to also have the converse impact, of diluting representation in East Anchorage. There was testimony submitted that spoke directly to that impact, where one resident expressed that the last time the Board paired a portion of East Anchorage with Eagle River “it took Senator Bettye Davis from us and from having a voice.”⁴¹⁴ Where the Board argues that the current senate pairings actually spreads Muldoon among more Senate districts, giving it more Senate seats, that argument falls flat in the face of the reality. Instead, it seems Muldoon is actually cracked among multiple senate districts and its voting strength is diluted as a result. At the same time, Eagle River’s voting strength is strengthened. Pairing South Muldoon with the Eagle River Valley will solidify Senate Seat K as a firmly Republican seat, while providing more representation to Eagle River in splitting it into two Senate seats.⁴¹⁵

The Board’s process in selecting these Senate seats is unlike the process with regard to the rest of the senate and house maps in its disregard for the vast majority of public testimony, its actions in cutting off discussion,⁴¹⁶ and its lack of clarity as to what pairings it was apparently planning on adopting.⁴¹⁷ Further, in substance, Senate District K pairs two districts, that, while contiguous in the strict definition of the word, ignore the communities of interest in Eagle River and Muldoon. While there may be some interaction between the communities, the evidence in the record makes clear that any interaction

⁴¹¹ Trial Transcript 89:2-4 (Jan. 21, 2022).

⁴¹² Affidavit of Dr. Chase Hensel, Ph.D. ¶¶ 70-72, 74.

⁴¹³ Board Meeting Transcript 175:16-25, 176:1-10 (Nov. 8, 2021).

⁴¹⁴ ARB 2479.

⁴¹⁵ Affidavit of Dr. Chase Hensel, Ph.D. ¶¶ 70-72, 74.

⁴¹⁶ Board Meeting Transcript 202:5-206:21 (Nov. 8, 2021); see also Board Meeting Transcript 21:6-22 (Nov. 10, 2021).

⁴¹⁷ Board Meeting Transcript 202:5-205:21 (Nov. 8, 2021).

includes only Eagle River residents driving into or through Muldoon, with Muldoon residents having no regular travel to or interaction with Eagle River.⁴¹⁸

Given substantial evidence of secretive procedures, regional partisanship, and selective ignorance of political subdivisions and communities of interest, Court finds that the Board intentionally discriminated against residents of East Anchorage in favor of Eagle River, and this intentional discrimination had an illegitimate purpose. The Court now looks to the record to determine the Board's justification, and whether the Board's intentional discrimination led to more proportional representation.

b) Representation

Unlike in *Kenai*, where the challenged Senate seat was justified as a natural consequence of pairing other House districts in order to comply with the VRA, no such justification has been put forth here, either in the Board's deliberations or in response to the Equal Protection claim. The justification provided was that Board Member Marcum felt strongly that North Eagle River and JBER should be paired, citing minimal public testimony that attested to links between North Eagle River and JBER.⁴¹⁹ While the Court understands this argument, it also evaluates it in the face of overwhelming public testimony to the contrary, and given that some justification involved misconstruing public testimony that was very clearly against an Eagle River/JBER pairing.⁴²⁰ Despite arguments in favor of pairing Eagle River and JBER, it was not necessary under the VRA, the constitution, or any other law, to pair North Eagle River and JBER.

Turning to proportionality, Eagle River Valley and North Eagle River/Chugiak are both underrepresented by -1.65% and -0.71% respectively.⁴²¹ South Muldoon is

⁴¹⁸ Board Meeting Transcript 189:15-22 (Nov. 8, 2021); Affidavit of Dr. Chase Hensel, Ph.D. ¶¶25-26.

⁴¹⁹ Board Meeting Transcript 181:19-25, 182:1-14, 198:13-200:23 (Nov. 8, 2021).

⁴²⁰ In her affidavit testimony, Major Wilson states that she testified to the Board regarding senate pairings and her belief that Eagle River house districts should be paired together into a single senate district. However, member Marcum took her comments out of context and "misconstrued the words of [Wilson's] testimony to misrepresent it as in favor of pairing Eagle River house districts with JBER or Northeast Anchorage districts." Wilson testified that "[t]here was no opportunity for the public to rectify this misrepresentation of [her] testimony, nor to give further comment on the senate pairings as selected by the Board." Affidavit of Felicia Wilson at ¶¶ 19, 21, 24-25, 27.

⁴²¹ ARB 117.

underrepresented by -1.70%.⁴²² Pairing Eagle River Valley with South Muldoon creates an average deviation of -1.68%, whereas pairing both Eagle River districts creates an average deviation of -1.18%. Thus, the Board's choice to pair Eagle River Valley with South Muldoon does not lead to more proportional representation.

<u>District</u>	<u>All persons</u>	<u>Target</u>	<u>Deviation</u>	<u>Difference</u>	<u>Average</u>
Senate District Pairings in 2021 Proclamation Plan					
South Muldoon -K- 21	18,023	18,335	-1.70%	-312	-307.5
Eagle River Valley -K- 22	18,032	18,335	-1.65%	-303	-1.68%
JBER -L- 23	18,285	18,335	-0.27%	-50	-90
North Eagle River/Chugiak - L- 24	18,205	18,335	-0.71%	-130	-49%
Senate District Pairings as Advocated by Plaintiffs					
North Muldoon -J- 20	18,203	18,335	-0.72%	-132	-222
South Muldoon -K- 21	18,023	18,335	-1.70%	-312	-1.21%
Eagle River Valley -K- 22	18,032	18,335	-1.65%	-303	-216.5
North Eagle River/Chugiak - L- 24	18,205	18,335	-0.71%	-130	-1.18%

As the Eagle River Valley and South Muldoon pairing were made with illegitimate purpose, and do not lead to more proportional representation, Senate District K violates Alaska's Equal Protection Clause and thus is unconstitutional.

3. Remedy

The Court in *Kenai* determined that the Court may consider any effect of disproportionality *de minimus* in determining the appropriate relief to be granted.

⁴²² ARB 117.

Pairing Eagle River Valley with South Muldoon creates a Senate District that is underrepresented by 1.68%. An Eagle River senate district would be less underrepresented, at -1.18%, a difference of -0.50%. These deviations are even smaller than the *de minimus* deviations in *Kenai*. As such, the effect of disproportionality here is *de minimus*. Yet, this Court does not feel that, on the facts of this case, which are distinct from *Kenai*, the same declaratory relief is warranted. In *Kenai*, the Board expressed that it explicitly discriminated against Anchorage voters in order to “retain the balance between regional and Anchorage senate representation.”⁴²³ This purpose, while ultimately illegitimate, lacked the secretive processes and discrimination against the communities of interest and political areas apparent in this case.

Justice Compton was particularly concerned for the potential future harm to the redistricting process that the majority’s *de minimus* exception would cause.

Although we are willing to “declare” Senate District E unconstitutional, we refuse to grant affirmative relief¹ because the effect of disproportionality is *de minimus*. . . . If indeed the harm in this case is *de minimus* then we should have declined to reach the constitutional issue in the first place. However, after having articulated the Alaska constitutional standard the court should not now be heard to say that it is not going to do anything about it.

The court reaches the incredible conclusion that a mere “declaration” of illegitimate purpose is an adequate remedy. Such a declaration is no remedy at all. The United States Supreme Court has stated: “once a State’s legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan.” Merely opining that Senate District E is unconstitutional is no guarantee that a reapportionment board will “scrupulously observe” the mandate of the Alaska constitution in the future. If there is no sanction for engaging in an unlawful process, a board can continue to do so risking only the inconvenience and expense of defending another declaratory suit. Accordingly, awarding only declaratory relief may encourage a board to cut corners when by so doing it can further illegal goals at little or no risk.⁴²⁴

⁴²³ *Kenai Peninsula Borough*, 743 P.2d at 1372.

⁴²⁴ *Kenai Peninsula Borough*, 743 P.2d at 1374–75 (Compton, J dissenting) (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)).

The Court in *Kenai* did not undergo an assessment of the totality of the circumstances, as the Board's discrimination was explicitly stated and explained. Here, the discrimination was the result of procedures that are suggestive of underlying political motives and evidence a concerted effort to push a pairing through that split the Eagle River house districts into two senate districts amidst staunch pushback from a minority of Board members and the vast majority of public comment. Declaratory relief in this case would not be appropriate, as the injury here is the dilution of voters in East Anchorage. Thus, the Anchorage Senate Pairings should be remanded to the Board to craft a pairing that complies with Alaska's Equal Protection Clause.

IX. THE HOUSE DISTRICT CHALLENGES

A. Mat-Su and Valdez Districts 29, 30 and 36

Both Mat-su and Valdez challenge the Board's proposed Districts 29 and 36. In addition, Mat-su challenges District 30. These challenges are interrelated, and will be considered together.

1. Article VI, Section 6 Challenges

As an initial matter, the Alaska Supreme Court has established the following order of priority relating to redistricting under Article VI, section 6: (1) contiguous and compactness; (2) relative socioeconomic integration; (3) consideration of local government boundaries; and (4) use of drainage and other geographic boundaries.⁴²⁵

a) District 29

1) Is District 29 Contiguous?

Contiguous territory is "territory which is bordering or touching."⁴²⁶ The court in *Hickel* noted that "[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e. the district is

⁴²⁵ *Hickel*, 846 P.2d at 62 (order of remand directing priority); see also *In Re 2001 Redistricting Cases*, 44 P.3d 141, 143 n2 (Alaska 2002) (following the same order of priority after the 1998 amendments).

⁴²⁶ *Hickel*, 846 P.2d at 45.

not divided into two or more discrete pieces.”⁴²⁷ But, contiguity is not absolute in Alaska because of its numerous archipelagos.⁴²⁸

Here, it is undisputed that District 29 is a single land mass in which all portions of the district are “bordering or touching” another portion, and “the district is not divided into two or more discrete pieces.”⁴²⁹ The Mat-Su and Valdez argue the district is not contiguous because a person would have to cross out of District 29 and into District 36 in order to drive from one side of the district to the other (for example from Valdez to Palmer or vice versa).⁴³⁰ That argument draws some support from the language of *Hickel* quoted above. But in *Hickel*, the only argument about contiguity was actually raised by the Court on its own because the Board separated the Aleutian Islands into two districts. The Court held that severing the islands into that manner violated the contiguity requirement of Article IV, section 6.⁴³¹

Mat-Su and Valdez essentially argue there must be “transportation contiguity” within a district.⁴³² This argument was specifically rejected when Valdez raised it in an earlier redistricting cycle. As the Superior Court explained in the 2001 redistricting litigation,

Both the Valdez plaintiffs and the Fairbanks North Star Borough urge this court to adopt a definition of contiguity such that a district could be found not to be contiguous if existing transportation systems required residents of the district to cross other districts in order to transverse the district in question. There is no support under Alaska law for such a definition of contiguity and this court rejects this approach. Contiguity is not dependent on the vagaries of existing transportation systems. Rather, the concept is a

⁴²⁷ *Id.*

⁴²⁸ *Id.*

⁴²⁹ *Hickel*, 846 P.2d at 45 (Alaska 1992) (citation omitted).

⁴³⁰ Mat-Su argues that District 29 is not contiguous with Valdez because of the way the Board drew the land area for District 29 south, or below, the portion of the Glenn Highway. That section of the Glenn runs approximately from Nelchina to Glennallen and south/southwest or below the portion of the Richardson highway that runs from Glennallen to a road in the area south of Tonsina described as 8-APL-2 Road. As a result, Mat-Su says it is not joined with Valdez by the road system. Affidavit of Steve Colligan at ¶¶ 48, 51.

⁴³¹ *Hickel*, 846 P.2d at 54.

⁴³² See, e.g., Jan. 24 Trial Tr. 381:23-388:21.

visual one designed to assure that no district contains two or more discrete or unconnected parts.⁴³³

This Court agrees with Judge Rindner's analysis. The fact that the road connection between Mat-Su and Valdez meanders in and out of two districts as it traverses around the Chugach mountains does not take away from the fact that every part of the district is physically connected. District 29 is contiguous.

2) Is District 29 Compact?

District 29 encompasses the eastern side of the Mat-Su Borough. It picks up the predominately residential area between Wasilla and Palmer to the north of Bogard Rd, and then extends eastward to gather in Valdez along the Glenn Highway, it gathers in several communities, including Sutton, Chickaloon, Glacier View, and Eureka before the Glenn crosses into District 36. District 29 then turns south near Glenallen and follows along to the west side of the Richardson Highway to Valdez. In so doing, District 29 excludes several Glenn Highway communities (Nelchina, Mendeltna, Tolsona,) and Richardson Highway communities (Glenallen, Tazlina, Copper Center, Kenny Lake, Tonsina). However, none of these Glenn or Richardson Highway communities are located in the Mat-su Borough.

The Alaska Supreme Court has held that "corridors of land that extend to include a populated area, but not the less-populated land around it, may run afoul of the compactness requirement" and "appendages attached to otherwise compact areas may violate the requirement of compact districting."⁴³⁴ The compactness requirement should not result in "bizarre designs" for districts.

There is a small appendage between Districts 29 and 36 along the Glenn Highway. Nonetheless, it does not appear "bizarre." There is also a large swath of land between Valdez and Sutton.⁴³⁵ Valdez and Mat-su also challenge the district's compactness

⁴³³ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *59 (Alaska Super. Feb. 01, 2002), *aff'd in relevant part*, 44 P.3d 141, 143 (Alaska 2002).

⁴³⁴ *Hickel*, 846 P.2d at 45-46.

⁴³⁵ Affidavit of Steve Colligan at ¶ 51.

because it contains a large unpassable area of mountains, ice fields, and glaciers.⁴³⁶ Valdez notes the Board has paired population centers separated by over 240 road miles and the Chugach mountain range. It is true that most of District 29 is made up almost entirely of urban areas – Wasilla, Palmer and Valdez. Together, these communities make up more than 97% of the population of District 29, but account for 5.84% of the land mass.⁴³⁷ The remaining 2.57% of District 29's population is spread over 94% of the land mass. In addition, Valdez notes it is separated from the Palmer-Wasilla population centers by more than 200 miles of roadway. But these features of District 29 are the very nature of Alaska's natural landscape. Further, many of the districts in this and earlier redistricting cycles have been composed of similar stretches of open space.

Members of the Board testified that they used an "eye test" to determine compactness, rather than objectively measuring the districts.⁴³⁸ Viewed in this manner, the Court cannot say that District 29 lacks for compactness. In this Court's view, District 29's shape is the natural result of Alaska's landscape and irregular features. It is relatively compact for purposes of Article VI, section 6.

3) Is District 29 Socio-Economic Integrated?

Most of the presentation at trial both by Valdez and Mat-Su focused on whether Valdez is sufficiently integrated with the Mat-Su Borough. The court in *Hickel* noted that "[i]n addition to preventing gerrymandering, the requirement that districts be composed of relatively integrated socio-economic areas helps to ensure that a voter is not denied his or her right to an equally powerful vote."⁴³⁹ Looking back to the constitutional Convention, the Court defined an integrated socio-economic unit as 'an economic unit inhabited by people. In other words, the stress is placed on the canton idea, a group of people living within a geographic unit, socio-economic, following if possible, similar economic

⁴³⁶ Affidavit of Steve Colligan at ¶ 51.

⁴³⁷ Affidavit of Kimball Brace at ¶ 99.

⁴³⁸ In past Redistricting cases, it appears the Board had considered various mathematical tests to determine compactness of the area, but no evidence was presented at trial suggesting that this board ever engaged in that process.

⁴³⁹ *Hickel*, 846 P.2d at 46.

pursuits.”⁴⁴⁰ Therefore, to satisfy this portion of the constitutional requirement, there has to be “sufficient evidence of socio-economic integration of the communities linked by the redistricting, proof of actual interaction, and interconnectedness rather than mere homogeneity.”⁴⁴¹

Election districts were intended to be composed of economically and socially interactive people in a common geographic region.⁴⁴² The Alaska Supreme court has identified several characteristics of socio-economic integration in redistricting. These include geographic proximity, shared transportation ties or linkage by road, ferry or scheduled air service, a common major economic activity, shared recreational and commercial fishing areas.⁴⁴³

The term “relatively” is included to suggest the court will “compare proposed districts to other previously existing and proposed districts as well as principal alternative districts to determine if socio-economic links are sufficient.”⁴⁴⁴ The term “relatively” does not mean “minimally,” nor does its use intend to weaken the constitutional requirement of integration.⁴⁴⁵ However, the Alaska Supreme Court has also noted this requirement is permitted “some flexibility by the constitution since districts need be integrated only ‘as nearly as practicable.’”⁴⁴⁶ But, “the flexibility that this clause provides should be used only to maximize the other constitutional requirements of contiguity and compactness.”⁴⁴⁷

The Board apparently recognized the difficulty in placing Valdez early in the process. Indeed, the decision where to place Valdez has been hotly debated in earlier redistricting cases.⁴⁴⁸ The initial proposed drafts adopted by the Board both placed Valdez

⁴⁴⁰ *Id.* at 46 (citing *Kenai Peninsula Borough*, 743 P.2d at 1360, n.11) (internal citation omitted).

⁴⁴¹ *Hickel*, 846 P.2d at 46 (citing *Kenai Peninsula Borough*, 743 P.2d at 1363).

⁴⁴² *Carpenter*, 667 P.2d at 1215.

⁴⁴³ *Hickel*, 446 P.2d at 46; *Carpenter*, 667 P.2d at 1215; *Kenai Peninsula Borough*, 743 P.2d at 1362-63; *Groh*, 526 P.2d at 879.

⁴⁴⁴ *Hickel*, 846 P.2d at 47.

⁴⁴⁵ *Id.*

⁴⁴⁶ *Hickel*, 846 P.2d at 45, n.10.

⁴⁴⁷ *Hickel*, 846 P.2d at 45, n.10.

⁴⁴⁸ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at *46 (Superior Court Decision, Feb. 1, 2002).

in a district similar to the 2001 and 2011 districts which followed along the Richardson Highway.⁴⁴⁹ This is also the district preferred by Valdez.

Public testimony strongly supported keeping Valdez in its traditional corridor. Indeed, there was no public testimony from either the Valdez side or the Mat-Su side which favored placement of Valdez with the communities of Palmer and Wasilla. Instead, it appears the Board found itself with essentially nowhere else to turn. But simply because Valdez is unique and difficult to place does mean that it cannot be done.

Asked to describe the socio-economic connections between Valdez and the Mat-Su, board members described the highway transportation between Valdez, the proximity of the Mat-Su Regional Hospital (as opposed to the Fairbanks Memorial Hospital), the similar funding for schools, some interaction by Valdez sports teams, and some overlap in “oil workers.” By contrast, witnesses from Valdez and the Mat-Su consistently described the significant differences between the communities. Valdez is a coastal community; the cities of Palmer and Wasilla are not. While there is a road connecting Valdez to the Mat-Su Borough, the testimony was uniform that the Mat-Su is not a “destination” for Valdez residents; it is little more than a pass-through. Similarly, Mat-Su residents are rarely, if ever destined for Valdez. The two communities do not share common workers, even if both have a connection to the oil industry. Valdez is the terminus of the Trans-Alaska Pipeline. The vast majority of its funding comes from taxes it receives on the pipeline infrastructure. Valdez residents may work in the Terminal or along the pipeline itself. Mat-Su has oil field workers who reside there, but they commute to the North Slope. Valdez’ other main economic staple involves commercial fishing. By contrast, Mat-Su residents may be involved in sport fishing. There are no regular commercial flights to the Mat-Su from Valdez.

The evidence establishes that Valdez has greater socio-economic links with Fairbanks and Anchorage than it does with Palmer or Wasilla in the Matanuska-Susitna Borough. Similarly, Valdez has greater links with other communities in Prince William

⁴⁴⁹ Compare ARB 47 (2021 Proclamation, District 29) with ARB 1590 (2013 Proclamation, District 9) and with Scheidt Aff. Ex. C at 2 (2002 Proclamation, District 12).

Sound such as Cordova than it does with Palmer or Wasilla. The testimony of the Valdez witnesses establishes that utility services for Valdez are generally oriented to communities along the Richardson Highway rather than down the Glenn to Palmer and Wasilla. Shipments into and out of the Port of Valdez, are primarily oriented towards the Richardson Highway and Fairbanks. By contrast, Palmer and Wasilla are oriented towards Anchorage. Marine transportation and commercial fishing activities are oriented towards Prince William Sound communities. Valdez residents clearly do not consider themselves oriented in their socio-economic relationships with Palmer and Wasilla, and neither do the witnesses from the Mat-Su Borough.

The Board points out that Valdez and Mat-Su are essentially arguing that Valdez is *more* socio-economically integrated with the Richardson Highway corridor or with the other communities of Prince William Sound than with the Mat-Su Borough. Neither the Board nor the Intervenor-Defendants challenge the basic premise that Valdez is socio-economically integrated with both the Richardson Highway and Prince William Sound. However, Alaska law is abundantly clear that no community is entitled to be districted with the communities it is *most* closely linked to: the Alaska Constitution requires the Board to create districts that are “relatively” socio-economically integrated in light of the other constitutional factors and balancing the needs of the whole state.⁴⁵⁰ Specifically, courts will find a district unconstitutionally lacking in relative socio-economic integration if “[t]he record is simply devoid of significant social and economic interaction among the communities within an election district.”⁴⁵¹

Mat-Su and Valdez argue that Valdez does not share socio-economic ties to the Mat-Su Borough. However, the record, as well as testimony elicited by the Board and the Intervenor-Defendants, contains evidence of at least minimal socio-economic links between Valdez and the Mat-Su. These include geographic proximity and connection via

⁴⁵⁰ *In re 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *27 (Alaska Super. Nov. 18, 2013) (“[J]ust because [certain communities] . . . could be more socio-economically integrated, does not mean that they are not socio-economically integrated enough where they are for constitutional purposes.”).

⁴⁵¹ *Hickel*, 846 P.2d at 46 (quoting *Carpenter v. Hammond*, 667 P.2d 1204, 1215 (Alaska 1983) (internal quotation marks omitted)).

the road system,⁴⁵² shared interests in the outdoor recreation industry,⁴⁵³ and common hunting and fishing areas in the region around Lake Louise, Klutina Lake, and Eureka.⁴⁵⁴ They also have at least some shared ties to the oil industry.⁴⁵⁵ The nearest hospital to Valdez, at least by road, is located in the Mat-Su Borough.⁴⁵⁶ Similarly, the nearest car dealerships, and large box stores are located in the Mat-Su.⁴⁵⁷ Valdez and Mat-Su also share an interest in maintenance and development of the state highway system,⁴⁵⁸

The communities in District 29 are served by school districts that are a part of home rule or first-class municipalities or boroughs, meaning their funding is obtained in part from a local tax base,⁴⁵⁹ and these home rule communities also have a shared interest in debt reimbursement from the legislature.⁴⁶⁰ Similarly, Valdez school sports teams compete against sports teams in the Mat-Su Borough.⁴⁶¹ Together these links are constitutionally sufficient to establish *relative* socio-economic integration. Although there is evidence that Valdez and the Mat-Su Borough may have divergent interests on certain issues,⁴⁶² those interests do not negate the ties that *do* exist between the communities.

Looking at “previously existing” districts as a guide to relative socio-economic integration, as instructed by the Supreme Court,⁴⁶³ the record evidence demonstrates substantial similarities between District 29 in the 2021 Proclamation and both District 9 in the 2013 Proclamation and District 12 in the 2002 Proclamation.⁴⁶⁴ In short, Valdez and

⁴⁵² Binkley Aff. ¶ 26; Jan. 24, 2022 Trial Tr. 215:2-8 (Brown cross Q: “[T]here’s a road that connects Eastern Mat-Su to Valdez, correct?” A: “Yes, sir.”).

⁴⁵³ Jan. 24, 2022 Trial Tr. 179:19-180:15, 184:25-185:2 (DeVries cross); 263:14-17 (Scheidt cross); 283:10-12 (Scheidt cross discussing helicopter skiing).

⁴⁵⁴ Jan. 24, 2022 Trial Tr. 180:16-20 (DeVries cross); 219:5-13 (Brown cross), 262:16-263:13 (Scheidt cross discussing Valdez residents recreating at Lake Louise and Tazlina and Klutina Lakes); Jan. 25, 2022 Trial Tr. 481:5-20 (Duval hunting in Eureka and recreating at Klutina Lake). Mat-Su residents also fish in Valdez. Jan. 24, 2022 Trial Tr. 218:24-219:4 (Brown cross).

⁴⁵⁵ Jan. 24, 2022 Trial Tr. 178:7-13 (DeVries cross); Jan. 24, 2022 Trial Tr. 218:9-19 (Brown cross).

⁴⁵⁶ Jan. 24, 2022 Trial Tr. 183:5-18 (DeVries cross discussing Palmer amenities as the closest to Valdez).
⁴⁵⁷ *Id.*

⁴⁵⁸ Binkley Aff. ¶ 26; Jan. 24, 2022 Trial Tr. 182:10-14 (DeVries cross); 283:6-9 (Scheidt cross).

⁴⁵⁹ Binkley Aff. ¶ 27; Jan. 24, 2022 Trial Tr. 182:15-24 (DeVries cross discussing Mat-Su Borough home rule school district); 258:6-10 (Scheidt cross).

⁴⁶⁰ Binkley Aff. ¶ 27.

⁴⁶¹ Torkelson Aff. ¶ 53; Jan. 24, 2022 Trial Tr. 260:15-20, 261:12-262:14 (Scheidt cross).

⁴⁶² Jan. 24 Trial Tr. 345:23 – 345:7 (Colligan cross); Jan. 28 Trial Tr. 1276:13-19 (Pierce direct on rebuttal).

⁴⁶³ *Hickel v. Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992).

⁴⁶⁴ Compare ARB000047 (2021 Proclamation, District 29) with ARB001590 (2013 Proclamation, District 9) and with Scheidt Aff. Ex. C at 2 (2002 Proclamation, District 12).

the Mat-Su Borough have been districted together in the past two redistricting cycles, and the courts have upheld those districts.⁴⁶⁵ The Valdez district was specifically challenged in the 2011-2013 litigation, and the courts found the district constitutional.⁴⁶⁶

Although Valdez has presented evidence of *some* differences between the 2013 District 9 and the 2021 District 29, on the whole the evidence demonstrates that the two districts are substantially similar. In addition, there is evidence showing the majority of the residents of District 9 under the 2013 Proclamation will be represented by District 29 under the 2021 Proclamation.⁴⁶⁷ Valdez has emphasized that District 29 removed several Richardson Highway communities such that it is not possible to drive from Valdez to the other parts of District 29 without leaving the district. But transportation connectivity is not a constitutional requirement, as discussed above. Moreover, the Mayor of Valdez testified—and a review of the maps confirms—that both the 2013 and 2002 districts *also* omitted a portion of the road connection so that it was not possible to drive from one end to the other without leaving the district.⁴⁶⁸

Valdez's expert Kimball Brace testified that if two places have been districted together in the past, it creates a presumption that they are socio-economically integrated and may be districted together again.⁴⁶⁹ Valdez has not pointed to any significant change in circumstances that would suggest that Valdez and the Mat-Su Borough are any less

⁴⁶⁵ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *12-17 (Alaska Super. Nov. 18, 2013); *In re 2001 Redistricting Cases*, 47 P.3d 1089 (Alaska 2002).

⁴⁶⁶ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *12-17, *pet. for review denied*, No. S-15422 (Jan. 23, 2014). While this challenge was primarily focused on compactness rather than socio-economic integration, *see id.*, it nonetheless provides strong evidence that the current district is constitutional if it is substantially similar to the district previously upheld by the court. In the 2001 cycle, the Supreme Court even directed the Board to consider combining the Mat-Su Borough with communities to the north, south, or east in order to accommodate excess population. *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 n.7 (Alaska 2002). The Board ultimately combined the Mat-Su with communities to the east, resulting in the district that combined the Mat-Su and Valdez. *See* Scheidt Aff. Ex. C at 2 (2002 Proclamation, District 12).

⁴⁶⁷ ARB 116 (House core constituency report); Torkelson Aff. ¶ 52.

⁴⁶⁸ Jan. 24 Trial Tr. 294:9-23 (Scheidt Cross); *see* Scheidt Aff. Ex. C, at 2, 6 (Valdez district in 2002 and 2013 Proclamations); *see also* ARB 1590 (District 9 in 2013 Proclamation).

⁴⁶⁹ Jan. 26 Trial Tr. 741:4-12 (Brace cross). The Court notes that much of Mr. Brace's direct testimony in his affidavit seemed to have been crafted for him. This was particularly true of various deposition passages he quoted. At a minimum, Mr. Brace was simply sloppy in his work. While the court has no doubt that Mr. Brace is a longstanding expert in redistricting, his testimony demonstrated a lack of specific understanding about Alaska's unique landscape and the challenges it creates for redistricting.

integrated than they were in the past.⁴⁷⁰ The pairing of Valdez and the Mat-Su Borough in prior districts therefore provides further evidence that they are “relatively integrated” for present constitutional purposes.

The question of whether Valdez and the Mat-Su borough are socio-economically connected, or simply homogenous communities is a close one. There are certainly many differences between the two, and indeed there is direct competition in some respects. But it is also significant to the Court that the language of section 6 includes two qualifiers when describing the need for socioeconomic integration. The district shall be formed of territory containing “*as near as practicable a relatively integrated socio-economic area.*”⁴⁷¹ This standard is intended to provide both flexibility and a check on the Board in determining the districts.

In the *Kenai Peninsula* case, the Supreme Court determined there was sufficient socio-economic integration between North Kenai and South Anchorage for them to be districted together. The Supreme Court accepted a similar series of connections between Kenai and south Anchorage to those presented by the Board here. Despite the considerable geographic separation, and different interests, the two communities were *relatively* integrated.⁴⁷² Although the Court recognized the actual interconnectedness between North Kenai and South Anchorage was minimal⁴⁷³, it concluded the connections outside the district but within the common region were sufficient to demonstrate the required level of interconnectedness.⁴⁷⁴

The same situation holds in this case.⁴⁷⁵ Valdez and the Mat-Su Borough are also relatively socio-economically integrated for the purposes of Article VI, § 6 because both

⁴⁷⁰ To be sure, Valdez takes issue with the fact that a greater percentage of the population in the district is now based in the Palmer and Wasilla suburbs than was the case in prior districts. But this argument pertains to Valdez’s vote dilution claims, not to the issue of socio-economic integration.

⁴⁷¹ Alaska Const. art. VI, § 6 (emphasis added).

⁴⁷² *Kenai Peninsula*, 743 P.2d at 1363.

⁴⁷³ *Id.* at 1362.

⁴⁷⁴ *Id.* at 1363.

⁴⁷⁵ This Court’s conclusion about socioeconomic integration between Valdez and Mat-Su is greatly influenced by the Supreme Court’s determination in *Kenai*. If the Court had not taken such a broad view of the issue and held that regional integration was enough, this Court might have reached a different conclusion on the issue. But *Kenai* is the established law on this issue.

communities are socio-economically integrated with Anchorage.⁴⁷⁶ The courts have expressly held that Valdez and Anchorage are socio-economically integrated for purposes of redistricting,⁴⁷⁷ and the testimony at trial confirms this link.⁴⁷⁸ There is no dispute that the Mat-Su Borough and Anchorage are socio-economically integrated, and again the testimony amply confirms that connection.⁴⁷⁹ In the 2001 redistricting litigation, the Alaska Supreme Court expressly held that the Matanuska-Susitna Borough and Anchorage could be treated as one and the same for purposes of socio-economic integration, and that there existed sufficient socio-economic integration to the north, south, and east of the Mat-Su-Anchorage area.⁴⁸⁰ These shared ties to Anchorage further strengthen the socio-economic integration of Valdez and the Mat-Su Borough.

Finally, the Board reasonably determined that placement of Valdez with the Mat-Su Borough was the best of the available options in the context of the entire 40-district map. By the very nature of the term “relatively,” whether a district is “relatively integrated” must be analyzed in the context of the map overall, in balancing the “constitutional troika of compactness, contiguity, and socio-economic integration.”⁴⁸¹ When viewed in that light, it is evident that the Board made a reasonable choice in creating a Valdez/Mat-Su district that is sufficiently integrated to satisfy § 6 and also allows the Board to meet constitutional standards elsewhere.

Although as discussed elsewhere, this Court has concerns about the process used by the Board in a number of respects, it is clear from the record that the Board worked hard to find a fit for Valdez that took its preference into account. The same is true for Mat-Su. There is substantial evidence supporting the conclusion that the Board, faced with the challenge to create a statewide map, carefully considered the available options and

⁴⁷⁶ See *Kenai Peninsula Borough*, 743 P.2d at 1363.

⁴⁷⁷ *In re 2001 Redistricting Cases*, No. 2002 WL 34119573, at *103-13 (Alaska Super. Feb. 1, 2002).

⁴⁷⁸ Jan. 24, 2022 Trial Tr. 255:4-10 (Scheidt cross) (discussing Valdez’s ties to Anchorage for shopping, commercial flights, and professional services). The only commercial flights out of Valdez are to Anchorage. Jan. 24, 2022 Trial Tr. 266:22-24 (Scheidt cross).

⁴⁷⁹ Jan. 24, 2022 Trial Tr. 178:23-179: 9 (DeVries cross); 224:3-225:1 (Brown cross discussing ties between Mat-Su and Anchorage to include: air travel, restaurants, concerts and entertainment, commuting to work, shopping, the Alaska Railroad, and the Glenn Highway).

⁴⁸⁰ *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 & n.7 (Alaska 2002).

⁴⁸¹ *In re 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *7 (Alaska Super. Nov. 18, 2013).

acted reasonably in placing Valdez in a district with a portion of the Mat-Su Borough. As stated above, the socio-economic ties between Valdez and the Mat-Su Borough meet the constitutional threshold. And none of the other options available to the Board created greater socio-economic integration for the district that includes Valdez without sacrificing constitutional compliance elsewhere.

The primary options considered by the Board are represented by the six proposed maps the Board took on its public hearing “road show.” These maps were “Board Composite v.3,”⁴⁸² “Board Composite v.4,”⁴⁸³ and the third-party maps prepared by Alaskans for Fair Redistricting (“AFFR”),⁴⁸⁴ Alaskans for Fair and Equitable Redistricting/Calista Corporation (“AFFER/Calista”),⁴⁸⁵ the Senate Minority Caucus (“SMC”),⁴⁸⁶ and the Coalition of Doyon, Limited; Tanana Chiefs Conference; Fairbanks Native Association; Ahtna, Inc.; and Sealaska (“Doyon Coalition”).⁴⁸⁷

Valdez also submitted a partial map for the Board’s consideration on October 19th, known as “Valdez Option 1.”⁴⁸⁸ This map shows only 11 districts, and the evidence makes clear that Valdez focused on drawing the boundaries of its own district to its liking, rather than on developing a comprehensive statewide map. Because Valdez Option 1 does not necessarily attempt to harmonize the constitutional factors statewide, it does not provide a full picture of “proposed” or “principal alternative districts” against which to measure the Board’s final plan.⁴⁸⁹ Valdez counters that it was never intended to be a “full-40” map, but rather was intended as a “concept map” for the Board to consider.⁴⁹⁰ Nonetheless, because Valdez Option 1 was submitted to and considered by the Board, the Court will

⁴⁸² ARB 1341-ARB 1387.

⁴⁸³ ARB 1388-ARB 1434.

⁴⁸⁴ ARB 1294-ARB 1340.

⁴⁸⁵ ARB 1232-ARB 1293.

⁴⁸⁶ ARB 1482-ARB 1528.

⁴⁸⁷ ARB 1435-ARB 1481.

⁴⁸⁸ See ARB 4104-ARB 4105 (“Valdez Option 1” map and notes); Valdez First Am. Compl. Ex. E (same).

⁴⁸⁹ *Hickel*, 846 P.2d at 47.

⁴⁹⁰ Valdez has also relied heavily on a new map prepared specifically for this litigation by its expert, Kimball Brace, referred to as “Valdez Alternative 3.” Brace Aff. ¶¶ 135-164; *id.* at Ex. DD. Because it was not prepared or submitted until well after the Board completed its process, this map could not possibly have been considered by the Board and is not one of the “principal alternative[s]” against which the Board’s own map can be measured. See *Hickel*, 846 P.2d at 47.

analyze it to the extent that it sheds light on the constitutional options available to the Board.

Given the 2020 census numbers, the Board understood at the outset that it is “not mathematically possible to couple Valdez, Cordova, and the Kodiak Borough” into a single district.⁴⁹¹ The Board also understood⁴⁹² that the Fairbanks North Star Borough (“FNSB”) had enough population for 5.2 House districts, and thus its districts would either need to be significantly over-populated or the Borough would need to shed approximately 4,000 people into an adjacent district.⁴⁹³ These two realities had significant implications for all of the maps considered by the Board. It is also worth noting that Valdez’s remote location and the realities of geography, including an ocean border to its south, further constrain the available options.

One option was to combine Valdez and Kodiak. Both AFFER/Calista and the SMC proposed this option, placing Valdez in a coastal district with part of Prince William Sound and with Kodiak.⁴⁹⁴ This choice leaves only one option for the placement of Cordova in a contiguous district: the rural Interior district.⁴⁹⁵ That approach was unpalatable because Cordova, a coastal, non-road system Prince William Sound community shares no perceptible socio-economic integration with any of the rural Interior communities or the Interior hub community of Fairbanks. In light of the options before it, the Board

⁴⁹¹ Jan. 26 Trial Tr. at 799:7-25 (“Q: [I]s it mathematically possible, with the ideal population of 18,335, to put Valdez, Cordova, and Kodiak into the same district? A: Absolutely not. . . . [Kodiak’s population] . . . made it difficult to populate the Gulf District and to figure out where all of the other communities were going to go. So, it was not mathematically possible to couple Valdez, Cordova, and the Kodiak Borough.”); see also ARB008409 (Sept. 17 Meeting Tr. at 107:18-24) (Doyon Coalition testimony that Valdez, Cordova, and the Prince William Sound communities “have too much population to form a district with Kodiak”).

⁴⁹² Valdez argues that Chair Binkley refused to consider breaking the FNSB until very late in the process, thereby boxing itself into a corner when the time came to address Valdez.

⁴⁹³ Jan. 27 Trial Tr. at 1131:24-1132:11 (Binkley redirect).

⁴⁹⁴ See ARB 1289 (AFFER/Calista Proposed District 36); ARB 1520 (SMC Proposed District 32).

⁴⁹⁵ See ARB 1258 (AFFER/Calista Proposed District 5); ARB 1494 (SMC Proposed District 6). Cordova could also, arguably, be combined with a Southeast Alaska district, but doing so would require significantly overpopulating Southeast. The Board received no testimony throughout the process advocating for that approach, and it determined early in the mapping process that doing so would not have been reasonable. Early Alaska redistricting cases found Cordova not to be socioeconomically integrated with Southeast, *Groh v. Egan*, 526 P.2d 863, 879 (Alaska 1974); *Carpenter v. Hammond*, 667 P.2d 1204, 1215 (Alaska 1983), but later cases found it necessary to include Cordova with Southeast to avoid unconstitutionally high population deviations, *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 (Alaska 2002). Because including Cordova with Southeast would have *increased* (rather than decreased) deviation in this redistricting cycle, it was not a feasible option under this line of precedent.

determined that a district combining Cordova with the rural Interior Athabascan villages of the Western Interior and the southern Brooks Range would not have been relatively socio-economically integrated. When faced with the option of combining Cordova with Arctic Village or Valdez with the Mat-Su Borough, the Board concluded the Mat-Su/Valdez pairing was the better alternative.⁴⁹⁶ In addition, the inclusion of the population of Cordova (approximately 2,600 people) in the rural Interior district would have meant that 2,600 residents of rural Interior villages that would otherwise be in the Interior district would be pushed elsewhere. This relatively small move to address Valdez' situation would ripple across the state.

Another option would have combined Cordova and Valdez, leaving out Kodiak. Valdez's "Option 1" map presented this option.⁴⁹⁷ Valdez acknowledged that its "Option 1" proposal focused primarily on creating a district that worked for Valdez⁴⁹⁸ and it was not intended to be a 40-district map which would harmonize the constitutional criteria across the full state. The record and the evidence at trial demonstrate that it creates constitutional issues across several regions. In Valdez Option 1, the Valdez-Cordova district runs up the Richardson Highway and into the southern portion of the FNSB. Board members testified to the problems created by this proposal. First, due to the number of people living in Valdez, Cordova, and the Richardson Highway corridor, this district only has "room" to include approximately half of the FNSB's excess population. In order to avoid excessively overpopulating the rest of the FNSB districts, Valdez Option 1 puts the rest of the FNSB's excess population into a second Interior district. This runs counter to the Alaska Supreme Court's instruction in *Hickel* that "where possible, all of a municipality's [or borough's] excess population should go to one other district."⁴⁹⁹ The Board ultimately chose an option that split the FNSB only once and put all of its excess

⁴⁹⁶ Jan. 26 Trial Tr. at 801:24-802:2 (Borromeo cross) ("Q: . . . what do you think is more socioeconomically integrated, Valdez and the Mat-Su or Cordova and Arctic Village? A: Valdez and the Mat-Su."); see also Jan. 24 Trial Tr. at 395:11-396:1 (Colligan cross) (discussing district combining Cordova, Arctic Village, and Kaltag, describing Kaltag and Cordova as "very different").

⁴⁹⁷ ARB 4104-ARB 4105 (Valdez Option 1 map).

⁴⁹⁸ Jan. 25 Trial Tr. at 533:24-534:1 ("our hope was that the redistricting board would take a look at this conceptual map and how we had drawn the lines from Valdez").

⁴⁹⁹ *Hickel*, 846 P.2d at 52.

population into a single district. It was reasonable for the Board to determine that Valdez Option 1 was not a viable option in this respect.

Valdez Option 1 also created problems for the socio-economic integration of several districts. It placed Cordova (a coastal city that is not on the road system) with Fairbanks (a road system community in the heart of the Interior), and there is no evidence of socio-economic integration between those communities. Instead, there was evidence that Cordova residents “did not want to be districted with the Fairbanks North Star Borough. They thought the suggestion was just unfathomable and off the table.”⁵⁰⁰ Valdez Option 1 also included a district stretching from Nunivak Island off the coast of Southwest Alaska to Bettles, in the northern Interior.⁵⁰¹ At trial, Valdez was unable to show why this proposed district is relatively socio-economically integrated.⁵⁰² Board members also testified at trial that this proposed district would not have been relatively socio-economically integrated.⁵⁰³ The Board made a reasonable determination that Valdez Option 1 was not a viable or preferable alternative.⁵⁰⁴

At the end of the day, the Board was simply unable to find an alternative⁵⁰⁵ that it considered to be better than the ultimate pairing.⁵⁰⁶ The Board clearly understood that

⁵⁰⁰ Jan. 26 Trial Tr. at 809:12-16 (Borromeo cross) (summarizing public comment from the Cordova hearing); *see also, e.g.*, ARB001937 (Cordova resident testifying that being districted with the Interior had been “nightmare-ish” for Cordova, “as there were no socio-economic ties with the Delta Junction and Tok.”); ARB003003 (Cordova Mayor testifying that Cordova is best placed in a coastal district with Kodiak).

⁵⁰¹ *See* ARB 4104.

⁵⁰² Jan. 25 Trial Tr. at 534:10-19 (Pierce cross).

⁵⁰³ *E.g.*, Jan. 26 Trial Tr. at 869:25-870:16 (Borromeo cross); Bahnke Aff. ¶¶ 23-25.

⁵⁰⁴ *See, e.g.*, Bahnke Aff. ¶¶ 23-25 (explaining constitutional problems with Valdez Option 1); Binkley Aff. ¶ 34 (similar); Borromeo Aff. ¶¶ 39-40 (similar).

⁵⁰⁵ Another option for the Valdez-Cordova-Kodiak triangle would combine Cordova and Kodiak. That in turn would mean that Valdez is districted either with the Richardson Highway *and* the Interior, or with the Mat-Su Borough. The Board considered maps that used both of these approaches, and ultimately it reasonably determined that the Valdez/Mat-Su combination was the best available option. Faced with the question whether Valdez was more socio-economically integrated with the Mat-Su Borough or with Arctic Village and other communities deep in the Interior, the Board chose to place Valdez and Mat-Su together. That conclusion was not unreasonable.

⁵⁰⁶ The AFFR map also placed Valdez in a proposed district that includes the road system communities of the Richardson Highway corridor (excluding Glennallen), many of the rural Interior villages (but not all), and significant population from the FNSB communities of the Harding-Birch Lakes area, Salcha, Moose Creek, and Eielson Air Force Base. ARB001336 (AFFR Proposed District 36). That district also stretches all the way to the southern Brooks Range, putting Valdez in a district with Arctic Village. AFFR’s Valdez-to-Arctic Village district created ripple effects elsewhere as well. The only district that could accommodate the rest of the rural Interior villages was the proposed District 39, which would stretch from St. Lawrence Island to the border of the FNSB in the Interior.

Valdez wanted to be placed in a district with the Richardson Highway communities, as proposed in Valdez Option 1. Several Board members testified that none of the other proposed maps were *constitutionally better* than the map drawn by the Board, and the evidence supports this conclusion. As Member Borromeo testified, Valdez “couldn’t tell us how they would populate their own district, let alone the other 39, in a way that was better than the option that the board ultimately adopted.”⁵⁰⁷

The Court well recognizes that the Board has to draw 40 districts that meet constitutional criteria for the entire state. The process has been described as “Herculean” and this Court agrees. It is an extraordinary undertaking, and the Court sees no evidence the Board’s intentions for Valdez and Mat-Su were dishonorable. Further, Mat-Su and Valdez are clearly oriented towards their own needs.

But based on all of the evidence, this court concludes that District 29 pairing Valdez with the Mat-Su Borough communities of Palmer and Wasilla is “*as nearly as practicable* a relatively integrated socio-economic area.” While the question is a close one, given the Supreme Court’s decision in *Kenai*, the level of socioeconomic integration is sufficient to meet the constitutional requirement of Article VI, section 6.

b) Challenge to District 36

Valdez and Mat-Su also challenge the Board’s creation of District 36.⁵⁰⁸ District 36 is apparently the largest voting district in the United States. It stretches from the Yukon River village of Holy Cross to the Copper River Valley community of McCarthy. District 36 combines 35 percent of Alaska’s geographic area into only one of the forty house districts. It is a massive horseshoe shaped swath of land that stretches from the Canadian

⁵⁰⁷ Jan. 26 Trial Tr. 873:5-8.

⁵⁰⁸ The Court notes that it has referred to “Valdez” throughout this Order. Because this portion of the challenge relates to a different District than Valdez was placed in, the Court notes that a question of standing might be raised. The Alaska Constitution allows any qualified voter to bring suit in the Superior Court to compel the Board to “correct any error in redistricting” However, the Alaska Supreme Court has broadly interpreted the concept of standing. *Carpenter v Hammond*, 667 P.2d 1204, 1209-1210 (Alaska 1983). In the 2001 Redistricting case, Judge Rindner recognized the right of government entities to bring suit in addition to individual voters. That determination was affirmed by the Supreme Court.

border in the east almost to the Bering Sea coast in the west. It is larger than most of the states.

Neither Valdez or Mat-Su argue that District 36 is not contiguous. It is undoubtedly a large expanse of land, but every part of it is touching another part. It does cross numerous geographic features, including both rivers and mountain ranges. It also crossed different Boroughs. But, given the sparse population of this immense and predominately roadless rural area, it is difficult to see how a district could be drawn for this area of the State without taking in a large area. Under the circumstances it is contiguous.

Whether District 36 is sufficiently compact is a different question. In the last days of the Board's work, Chair Binkley stated on the record that District 36 as it appeared in v.3 and v.4, which is substantially similar to District 36 in the Final Plan, is not compact. Looking at what had been described as the "Doyon Region" on a map the Board was then considering, Chair Binkley stated "if you want to talk about compact, look at the Doyon region in version 3 and 4. That wouldn't be compact by any stretch of the imagination."⁵⁰⁹

Alaska courts "look[] to the *shape* of a district," not its size.⁵¹⁰ Looking at the overall shape of the district, it appears like a horseshoe to surround the more urban areas of the state. It also takes in portions of three different boroughs. The 2013 Proclamation district 6-C took in a similar mass of land to the east, and swung north around the city of Fairbanks.⁵¹¹ But District 6 did not extend so far to the west. Instead, it followed the western edge of the Denali and Mat-Su borough lines. Both the 2002 Plan and the 1994 Plan contained a similarly large interior district with the same characteristic horseshoe shape.⁵¹²

Given Alaska's unique geography and relatively low population, which is spread unevenly across a state that is larger than most States and many countries, "neither size

⁵⁰⁹ Nov. 3, 2021, Board Meeting Tr. at 198, lines 9-12 (ARB 7558).

⁵¹⁰ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992) (emphasis added). In other words, the inquiry looks at the district's "perimeter *in relation to* the area encompassed." *Id.* (emphasis added). The area itself is not useful as a stand-alone metric.

⁵¹¹ ARB 1581; ARB 1587.

⁵¹² Exhibit VDZ-3005 p.1 (1994 Map), and p. 4 (2002 Map).

nor lack of direct road access makes a district unconstitutionally non-compact.”⁵¹³ Indeed, in a previous redistricting case, Judge Rindner specifically noted that “[d]istricts within Alaska have often been the size of several States in the Lower 48. Often the communities within such large districts are geographically isolated and small in population.”⁵¹⁴ That is the case with District 36. The evidence in the record shows that the size of District 36 is “a result of the geography and the population” in that region,⁵¹⁵ as it covers a sparsely populated area in which a map-drawer may sometimes need to go “hundreds of miles” to find the next block of population to assemble enough population for a full district.⁵¹⁶ Such expanses are inherent in Alaska redistricting, and they do not make a district unconstitutional.

In *Hickel*, the Supreme Court recognized that odd-shaped districts may be the result of Alaska’s irregular geometry. But “corridors” of land that extend to include a populated area, but not the less-populated land around it, may run afoul of the compactness requirement. Similarly, appendages attached to otherwise compact areas may violate the requirement of compact districting.⁵¹⁷

Both Mat-Su and Valdez argue the inclusion of the “Cantwell cutout” in District 36 is an unconstitutional appendage. The addition of Cantwell does make the district appear less compact. The Board and the Intervenor argue the inclusion of Cantwell is justified because Cantwell is socio-economically integrated with the Ahtna region (the rest of which was placed with District 36) and should be included in the rural Interior district.⁵¹⁸ There is evidence in the record supporting this view.

⁵¹³ *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1092 (Alaska 2002).

⁵¹⁴ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *61 (Alaska Super. Feb. 01, 2002).

⁵¹⁵ ARB 7953 (Nov. 5 Meeting Tr. at 96:12-13).

⁵¹⁶ Jan. 26 Trial Tr. 730:12-18 (Brace cross).

⁵¹⁷ *Hickel*, 846 P.2d at 45-46

⁵¹⁸ ARB001793-ARB001794 (testimony of Michelle Anderson that “villages within [the] Ahtna region have strong and extensive family ties, customary and traditional Ahtna practices and thousands of years of familial, cultural & traditional, land use, and economic connection”); ARB002873 (testimony supporting inclusion of Cantwell in Interior district, as done in the Doyon Coalition map); ARB003418 (testimony that the Ahtna villages share all the customary and traditional values, are related to the Cantwell residents, share the same values, and speak the same language”), ARB003998, ARB004220 (testimony that “Cantwell is a part of the Ahtna region and should be represented as such. Cantwell is compacted with 5 other Ahtna Villages to comprise the Copper River Native Association”); see ARB009242 (Nov. 4 Tr. at

For example, there was testimony that Cantwell and the other Ahtna villages “all have the same language, customs, traditions, and they hunt, fish, and do berry picking together.”⁵¹⁹ Cantwell is one of the eight traditional Ahtna villages. In addition, Cantwell is one of the villages comprising the Copper River Native Association based in Copper Center.⁵²⁰ The record testimony spoke to the integration of the Ahtna region as a whole, as well as the integration of that region with the rest of the Interior (primarily the Doyon region). Trial evidence demonstrated the same, highlighting socio-economic and cultural links such as shared potlatch, art, and subsistence traditions.⁵²¹ The Alaska Supreme Court has previously noted such cultural links may be relevant in determining socio-economic integration.⁵²²

Additionally, both the Board and Intervenors offered testimony from witnesses attesting to the historical connection between Cantwell and other rural communities to the east. Michelle Anderson, Ahtna’s president, testified to Cantwell’s status as one of the eight native villages in the Ahtna region. She further testified to the common heritage, history and way of life that Cantwell shares with the other Ahtna villages. In fact, Ahtna is involved in this case in part to advocate to the Board that it should respect the ANCSA regional corporation boundaries as an indicator of socioeconomic integration. Several board members testified that ANCSA regional boundaries are an indicator they considered in determining district boundaries, but only as one measure of socioeconomic integration.

The Board also offered testimony at trial that people in the Doyon and Ahtna regions “share some socioeconomic similarities” because they engage in subsistence, access similar types of healthcare, face similar challenges with regard to access to

72:7-22) (Board discussion of the public testimony); see also ARB000639, ARB001795-ARB001796, ARB001822 (additional public testimony supporting inclusion of Cantwell in rural Interior district).

⁵¹⁹ ARB 3089.

⁵²⁰ ARB 4220.

⁵²¹ Jan. 26 Trial Tr. 887:21–888:8 (Otte cross) (Native peoples in Doyon and Ahtna regions “share the same cultures, we hunt and eat the same subsistence [foods] in the areas”); Jan. 26 Trial Tr. at 919:7 – 920:23 (Wright cross) (describing historical and current family ties between Doyon and Ahtna regions); Anderson Aff. ¶¶ 5, 9-13; Wright Aff. ¶¶ 20-21; Otte Aff. ¶ 27.

⁵²² See, e.g., *Hickel v. Southeast Conference*, 846 P.2d 38, 53-54 (Alaska 1992) (discussing the distinct nature of Athabascan and Iñupiaq cultures).

utilities, and have similar concerns with regard to the quality of rural schools.⁵²³ Similarly, there was evidence the district covered the regions of two ANCSA corporations, Ahtna and Doyon. Both companies have intervened in the case, and participated at trial.⁵²⁴ Asked about socio-economic integration throughout the region, Vicki Otte testified that both Doyon and Ahtna have primarily Athabaskan shareholders, and they share the same cultures.⁵²⁵ Similarly, residents across the region, both native and non-native share socioeconomic similarities, including subsistence activities.⁵²⁶

On the other hand, Valdez points to comments by members Binkley and Borrromeo suggesting the absence of socioeconomic integration. Chair Binkley discussed the issue specifically at the Board Meeting on November 5, 2021 when addressing where to put the excess Fairbanks population: “that whole district 36 is so not socioeconomically integrated that I think it would be difficult to make a case that it’s -- it’s going to disrupt that somehow.”⁵²⁷ At another meeting a few days later, Chair Binkley further explained:

CHAIRMAN JOHN BINKLEY: I think it’s a judgment call. I think there’s -- you know, you can make -- when you look at the -- 36, it’s very diverse as well; you know, there’s a lot of differences between Glennallen versus some of their remote villages on the (indiscernible), or you look at Tok that’s on the highway system or Delta on the highway system. Those are different communities, completely, in many of the rural communities out north and -- and out west. And so it’s difficult to say, socioeconomically, you know, that 36 is homogeneous. It’s very different, and you can find different areas of Fairbanks that related to different areas of District 36. So it’s hard to make a generalization.⁵²⁸

During depositions and in trial testimony, the Board took a very broad view of socioeconomic integration when it came to District 36. For example, Member Borrromeo was asked about the socio-economic drivers the board was required to consider as part of its constitutional mandate.

⁵²³ Jan. 26, 2021 Trial Tr. 888:6 – 889:6 (Vicki Otte).

⁵²⁴ Ahtna and Doyon were also part of an active coalition which proposed a redistricting map, and included representatives, including its lawyer on the “roadshow.”

⁵²⁵ Jan. 26 Trial Tr.888:6-9 (Vicki Otte cross by the Board) (“We’re Athabascans, they are all interior villages, we share the same cultures, we hunt and eat the same subsistence in the areas.”).

⁵²⁶ Jan. 26 Trial Tr.888:16-21 (Vicki Otte cross by the Board).

⁵²⁷ Nov. 3, 2021, Board Meeting Tr. at 279, lines 1-11.

⁵²⁸ Nov. 5, 2021, Board Meeting Tr. at 242, line 15 – page 243, line 3 (ARB 8098-8099).

But as I view our state, we are an oil and gas driven state, so there's not one region of the state that does not depend on the oil and gas industry to fuel our economy. So we're all socio-economically integrated that way.⁵²⁹

Ms. Borromeo was more specifically asked about her view when questioned about the connection between the east and west parts of District 36. As an example, when questioned whether Glennallen is socio-economically integrated with the native villages in the western part of the state, she said:

If we go back to my earlier premise that the whole entire state is connected through the oil and gas industry, I would say "yes."

Is – is Glennallen socio-economically integrated to the degree that it should be districted with Bethel? There are other factors to consider that would prohibit that, such as compactness and contiguity.⁵³⁰

Similarly, in Ms. Borromeo's view, Holy Cross has sufficient socio-economic integration with Glennallen and Copper River to the degree that they may be districted together.⁵³¹ Asked to explain the socio-economic indicators for pairing Glennallen and Holy Cross in a district, Ms. Borromeo noted "the ANCSA region ties", "historic trade routes between the Athabascans from the Dena'ina country and the Ahtna part of the region," and potential ties to the oil industry working "as contractors for some of the drillers on the North Slope."⁵³²

At trial and during depositions, Valdez challenged the Board's formation of District 36 suggesting it favored Ahtna because of a possible conflict of interest involving Board counsel. However, it appears from the record and the trial evidence that the decision to include Cantwell in District 36 was the Board members' own decision, not made at the urging of counsel. The transcript of the Board meeting where this issue was discussed, on November 5, shows that in response to a question from Member Marcum, the Board's counsel stated it was a "coin toss" as to whether the reduction in compactness from including Cantwell in District 36 would be outweighed by the increase in socio-economic

⁵²⁹ Deposition of Nicole Borromeo at p125, L14-18.

⁵³⁰ Deposition of Nicole Borromeo at p127, L21-25 – p128, L1-2.

⁵³¹ Deposition of Nicole Borromeo at p128, L9-15.

⁵³² Deposition of Nicole Borromeo at p132, L3-16.

integration.⁵³³ While much was made of Board counsel's potential conflict, the Court does not find any evidence that Board counsel steered the Board's decision in any way to favor Ahtna. The Board was informed of potential conflicts for Board counsel during its interview process, and the board members who were questioned at trial said the decision to place Cantwell with the other Ahtna villages in District 36 was the Board's, and the Board's alone.⁵³⁴

The evidence in general shows the board viewed District 36 as a "rural" district, and concluded that rural communities generally share socio-economic ties. The record contains significant evidence of the social, economic, and cultural ties across the district. District 36 is made up of Interior towns and villages, largely small communities in rural regions. These communities share many characteristics of rural life. There are also specific historic and present cultural ties across District 36, as it broadly spans the region inhabited by Interior Athabascan peoples. There was considerable testimony, both in the public comment period and at trial, of the significant cultural similarities across Athabascan peoples.⁵³⁵ This testimony showed numerous socio-economic links across the region, including (but not limited to) common language and culture across "all Athabascan speaking people,"⁵³⁶ a dependence on similar subsistence foods, including moose and caribou,⁵³⁷ reliance on shared rural healthcare and social services systems,⁵³⁸ and shared concerns about the quality of rural schools.⁵³⁹

District 36 generally (though not perfectly) encompasses the Doyon and Ahtna ANCSA regions. The courts have acknowledged that ANCSA regions are indicative of

⁵³³ ARB008110 (Nov. 5 Meeting Tr. at 253:8-19).

⁵³⁴ Jan. 27 Trial Tr. 1163:10-11 (Binkley cross); *see also* Jan. 27 Trial Tr. 1167:24–1168:7 (Binkley redirect) (the Cantwell "decision was not based on [Counsel's] advice.").

⁵³⁵ *E.g.*, ARB001793-ARB001794; ARB002086-ARB002087; ARB002257-ARB002260; ARB002261-ARB002268; ARB002269-ARB002270; ARB002330; ARB002331; ARB003346; ARB003650-ARB003652; ARB003354; ARB003998; ARB004041 (public testimony discussing the integration of the Interior); Otte Aff. ¶¶ 23-27; Wright Aff. ¶¶ 14-21; Anderson Aff. ¶¶ 6-17; Jan. 26 Trial Tr. 885:3–890:4 (Otte cross); *id.* at 910:24-922:13 (Wright cross); *id.* at 933:17-20 (Wright redirect).

⁵³⁶ *E.g.*, Jan. 26 Trial Tr. 914:25-915:9 (Wright cross).

⁵³⁷ Jan. 26 Trial Tr. 886:11-14, 888:6-21 (Otte cross); *id.* at 916:10-20 (Wright cross); *id.* at 943:19–944:3 (Anderson cross).

⁵³⁸ Jan. 26 Trial Tr. at 906:14-23 (Otte cross); *id.* at 952:10-25 (Anderson cross).

⁵³⁹ Jan. 26 Trial Tr. at 888:16-889:6 (Otte cross).

socio-economic integration and may be used to guide redistricting decisions, and they may even justify some degree of population deviation.⁵⁴⁰

On the other hand, Valdez argues that it is inappropriate to use ANCSA boundaries to guide the drawing of districts that are not predominantly Alaska Native. This argument is unpersuasive for several reasons. First, the border that Valdez primarily takes issue with—the boundary between District 36 and the coastal District 39 (which coincides with the boundary between Doyon and the Bering Strait region)—is in an area where the communities are predominantly Alaska Native.⁵⁴¹ It is both logical and reasonable to use an ANCSA boundary to guide the drawing of district lines in this area of the state. Second, there is evidence that ANCSA boundaries are significant for non-Native residents too, particularly in rural areas. ANCSA regions coincide with the regions served by non-profit “sister organizations,” which in many rural communities provide healthcare for Native and non-Native residents alike.⁵⁴² Finally, the evidence shows that the western border of District 36 is also a boundary between school districts, and that school districts are a primary form of local government in that region of the state.⁵⁴³ Given the constitution’s explicit provision that local government boundaries may be taken into consideration, there is no reason the Board should disregard such a boundary just because it happens to coincide with an ANCSA boundary.⁵⁴⁴

At trial and in depositions, Valdez took pains to question the Board about socioeconomic integration between disparate communities on opposite sides of the state.⁵⁴⁵ In effect, Valdez suggests that District 36 lacks socio-economic integration because the residents of every community do not necessarily “live, work, and play” with

⁵⁴⁰ *E.g.*, *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1359 n.10 (Alaska 1987) (citing *Groh v. Egan*, 526 P.2d 863, 877 (Alaska 1974)); *see also Hickel*, 846 P.2d at 48. Indeed, ANCSA regions were drawn with the specific statutory intent that “each region [be] composed as far as practicable of Natives having a common heritage and sharing common interests.” 43 U.S.C. § 1606(a); *see also* Jan. 26 Trial Tr. 941:10-14 (Anderson cross) (testifying that ANCSA “boundaries were drawn based on the characteristics and similarities between peoples . . . for instance, culture, language, connection to the land, traditional foods, to name a few things”).

⁵⁴¹ Jan. 26 Trial Tr. at 921:1-922:13 (Wright cross) (affirming that the residents of Nulato, Galena, Ruby, Kaltag, Grayling, Anvik, Shageluk, and Holy Cross are all “predominantly Alaska Native.”).

⁵⁴² Jan. 26 Trial Tr. 952:7-953:23 (Anderson cross); *id.* at 956:8-25 (Anderson redirect).

⁵⁴³ Jan. 28 Trial Tr. 1318:2–1321:25 (Brace cross on rebuttal).

⁵⁴⁴ Alaska Const. art. VI, § 6; *see* Jan. 28 Trial Tr. 1320:11-16 (Brace cross on rebuttal).

⁵⁴⁵ *E.g.*, Jan. 26 Trial Tr. 835:1–839:4 (Borromeo cross).

the residents of every other community within the district. Although it may be true that the residents of Glennallen do not frequently find themselves working or recreating with residents of Holy Cross, this fact does not defeat the socio-economic integration of the district as a whole. As the courts have aptly noted:

Often the communities within such large districts are geographically isolated and small in population. They are not interconnected by road systems or by other convenient means of transportation. Such communities are not integrated as a result of repeated and systematic face to face interaction. Rather they are linked by common culture, values, and needs. The constitutional requirement of socio-economic integration does not depend on repeated and systematic interaction among each and every community within a district. Rather, the requirement in Article VI, Section 6 of the Alaska Constitution may, by its very terms, be satisfied if the "area" comprising the district is relatively socio-economically integrated without regard to whether each community within the "area" directly and repeatedly interacts with every other community in the area.⁵⁴⁶

Such is the case with District 36, as the Board determined.⁵⁴⁷

In sum, House District 36 is sufficiently compact, contiguous and relatively socio-economically integrated to the extent practicable, and is therefore constitutional Under Article VI, section 6.

c) Challenge to District 30

Mat-Su separately challenges the Board's proposed District 30. Specifically, Mat-Su claims District 30 fails to "contain as nearly as practicable a relatively integrated socioeconomic area."⁵⁴⁸ It further claims District 30 fails to properly consider local government boundaries.⁵⁴⁹

⁵⁴⁶ *In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at *61 (Alaska Super. Feb. 01, 2002).

⁵⁴⁷ See, e.g., Jan. 26 Trial Tr. at 838:16-24 (Borromeo cross) (testifying that the "rural interior villages . . . don't also have enough numbers, in and of themselves, to be in their own district. So, they need to be coupled with other communities that are as close to socioeconomically integrated as possible, and because these are all rural interior villages the board thought it was best to group them together into one district.").

⁵⁴⁸ Mat-Su Trial Brief at p24.

⁵⁴⁹ Mat-Su Trial Brief at p24.

District 30 extends from the shores of Cook Inlet in the south northward through a portion of the Denali Borough to the edge of the Fairbanks North Star Borough in the north. Along the way, it picks up the city of Houston, and several communities along the Parks Highway as it moves north. The notable exception is Cantwell, which is placed in District 36. To the west, District 30 follows the borough boundaries of both the Mat-Su and Denali Boroughs.

1) Contiguity

Mat-Su does not appear to challenge the contiguity of the Mat-Su districts (other than 29, as discussed above), and a review of the map demonstrates that District 30 is contiguous unto itself. Every part of the district is “territory which is bordering or touching.”⁵⁵⁰ All portions of the district are “bordering or touching” another portion, and “the district is not divided into two or more discrete pieces.”⁵⁵¹ As it did with District 29, Mat-Su argues the district is not contiguous because a person would have to cross out of District 30 and into District 36 in order to drive from one side of the district to the other. This argument was rejected in the discussion above regarding District 29, and is rejected for District 30 as well. Simply because the Parks Highway may pass between districts as it traverses the Alaska Range does not take away from the fact that every part of the district is physically connected.

2) Compactness

Mat-Su’s Section 6 compactness challenge to District 30 principally argues the Cantwell “appendage” should not have been included in District 36. Cantwell is a relatively small town on the Parks Highway just north of the Mat-Su Borough boundary. In pairing Cantwell with the rural District 36 to the east, the Board cut both the Mat-su and Denali Borough boundaries. As discussed previously, the Alaska Supreme Court has held that “appendages attached to otherwise compact areas may violate the requirement of

⁵⁵⁰ *Hickel*, 846 P.2d at 45.

⁵⁵¹ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992) (citation omitted).

compact districting.”⁵⁵² The compactness requirement should not result in “bizarre designs” for districts.

The Cantwell “cutout” or appendage was discussed above in the discussion of District 36, and will not be repeated here. If District 36 is compact with the addition of the Cantwell appendage, then District 30 is similarly compact with the area cutout.

3) Socio-Economic Integration

As noted previously, the Alaska Supreme Court considers all areas within an organized borough to be socioeconomically integrated as a matter of law.⁵⁵³ This is because Alaska statutes require a Borough, by definition, to have a “population of the area [that] is interrelated and integrated as to its social, cultural and economic activities . . .”⁵⁵⁴ It is therefore “axiomatic that a district composed wholly of land belonging to a single borough is adequately integrated.”⁵⁵⁵

In this case, District 30 is composed of two adjoining boroughs – the Mat-Su and Denali Boroughs. By law, the two adjoining boroughs are each socioeconomically integrated within themselves. Mat-Su does not seriously argue that District 30 is *not* socioeconomically integrated. Instead, its expert witness argues there were better alternatives that provided for greater socio-economic integration.⁵⁵⁶ In fact, the expert, Mr. Colligan testified at trial that District 30, at least the Mat-Su portion, along with four other Mat-Su Districts 25, 26, 27 and 28 are all socio-economically integrated.⁵⁵⁷

District 30, which combines the Mat-Su and Denali Boroughs, is socio-economically integrated overall. The record contains sufficient evidence to support the conclusion that the Mat-Su and Denali Boroughs are integrated by such ties as the Parks

⁵⁵² *Hickel*, 846 P.2d at 45-46.

⁵⁵³ *Hickel*, 846 P.2d at 52.

⁵⁵⁴ AS 29.05.031(a)(1).

⁵⁵⁵ *Hickel*, 846 P.2d at 52; *see also In re 2001 Redistricting Cases* No. 3AN-01-8914CI, 2002 WL 34119573, at *71 (Alaska Super. Feb. 01, 2002) (citing *Hickel*, 846 P.2d at 51-52).

⁵⁵⁶ Affidavit of Steve Colligan ¶¶ 60, 62.

⁵⁵⁷ Jan. 24, 2022 Trial Tr. 377:16 – 380:3 (Colligan cross); *see also* Jan. 24, 2022 Trial Tr. 185:3-11 (DeVries cross) (“Q: And then, as I understand your testimony from your affidavit, you believe all of the Mat-Su Borough is socioeconomically integrated?” A: “Yes.”).

Highway, the Alaska Railroad, and a shared tourism economy.⁵⁵⁸ Further, the Mat-Su Borough specifically requested that it be paired with the Denali Borough to fill out a portion of the population necessary to reach a sixth House district, and it does not argue with that pairing now. The Court accordingly concludes that District 30 is adequately integrated.

Because the Court District 30 is compact, contiguous and relatively socio-economically integrated, it is declared to be constitutional under Article VI, section 6.

2. Mat-Su's Overpopulation Challenge

"Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by 40."⁵⁵⁹ Mat-Su challenges Districts 25-30 claiming the Board overpopulated the six Mat-Su districts and thereby violated Article VI, section 6 because the deviations were too high.

Similar to the quantitative element of an equal protection analysis (discussed below), this provision requires any district formed by the board be "as near as practicable" to the ideal population arrived at when dividing the most recent census numbers of Alaska citizens by the available 40 house districts. While analyses under the federal standard and an old iteration of the State Constitution allowed *de minimis* deviations up to 10% without any justification from the board, revisions to Alaska's Constitution have removed such exclusions and require the board to justify any case in which population deviance is not minimized.⁵⁶⁰ This requirement is by and large synonymous with the quantitative analysis under an equal protection argument which protects the right to "one person, one vote" and is discussed further below.

The Mat-Su Borough as a whole grew substantially in the last decade. From 2010 to 2020, Mat-Su grew from a population of 88,995 residents to a population of 107,081 residents. It represented 78% of the statewide population growth over the decade.⁵⁶¹ Based on the 2020 census figures, the Borough was entitled to 5.84 house seats. Mat-

⁵⁵⁸ Jan. 24 Trial Tr. 189:16-190:5 (Brown cross).

⁵⁵⁹ Alaska Const. art. VI, § 10.

⁵⁶⁰ *In re 2001 redistricting Cases*, 44 P.3d 141, 146 (2002).

⁵⁶¹ Mat-Su Trial Brief at p5.

Su presented a plan to the board for an allocation of six house districts, partnering with the Denali Borough to pick up the balance of the population necessary to fill out six seats.⁵⁶²

Mat-Su offers testimony from Borough manager Michael Brown and its expert Steve Colligan in support of its challenge. Much of Mat-Su's evidence generally argues that its plan was better than the final plan adopted by the Board for the six districts covering the Mat-Su. But simply because Mat-Su would have preferred a different plan does not make the Board's plan unconstitutional. It is true that the Mat-Su districts as a whole appear to be overpopulated. This is particularly true when compared to the average deviation of other districts statewide.

The Board was focused on obtaining small deviations until it waited until the very end to place Valdez. Because they did not place Valdez until the end, they had 4,000 people that had to be placed in a district. Rather than consider evenly distributing this population, as the evidence demonstrates, the Board dumped the population into the Mat-Su, the area that had grown the most since the last census. This area had nearly the population to populate six districts, but the Board made the decision to overpopulate every district within the Mat-Su. The evidence demonstrates statewide there are only seven districts that have a deviation of over 2%, and of those seven, five are within the Mat-Su.

Mat-Su's overpopulation argument stems from the Board's decision to include Valdez in District 29. As discussed previously, that decision was based upon a lack of other reasonable and feasible alternatives. And that one decision led to the final deviation in District 29 of 2.53%. By historical standards, that deviation would have been considered *de minimis*. With the changes in technology, the overall deviations have come down in the last two re-districting cycles.

Considering the hard, but reasonable, choices the Board had to make about where to place Valdez, the Court concludes the population of Mat-Su's districts 25-30 was "as

⁵⁶² Affidavit of Michael Brown at ¶ 4; ARB 005969, ARB 005973-005974.

near as practicable to the quotient” as required by Article VI, section 6 and is therefore constitutional.

3. *Mat-Su Equal Protection*

There are two basic principles of equal protection in the context of voting rights in redistricting: (1) “one person, one vote,” which is the right to an equally weighted vote; and (2) “fair and effective representation,” which is the right to group effectiveness or an equally powerful vote.⁵⁶³ Mat-Su claims the Board violated its right to equal protection under both prongs of equal protection.

a) One Person, One Vote

The Mat-Su Plaintiffs allege that House Districts 25-30 in the Mat-Su Borough are over-populated, implicating residents’ right to an equally weighted vote. But the small population deviations in the Final Map—just 2.66% for the most populous district the Borough complains of—do not come close to making out a claim for violation of the “one person, one vote” principle. No court decision in Alaska has ever struck down a district with a deviation of 2.66% or smaller, and there does not appear to be any reason to depart from past precedent here.

The goal of “one person, one vote” is “substantial equality of population among the various districts.”⁵⁶⁴ This principle is also reflected in Article VI, § 6, in the requirement that House districts be “as near as practicable to the quotient obtained by dividing the population of the state by forty.”⁵⁶⁵ Under Alaska law, “minor deviations from mathematical equality” do not implicate equal protection.⁵⁶⁶ The Alaska courts evaluate deviations by measuring the maximum deviation across districts (either in a particular

⁵⁶³ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at *14 (Alaska Super. Feb. 1, 2002) (quoting in part *Kenai Peninsula Borough*, 743 P.2d at 1366).

⁵⁶⁴ *Id.* (quoting *Reynolds v. Sims*, 377 U.S. 533, 579 (1964)).

⁵⁶⁵ See *In re 2001 Redistricting Cases*, 44 P.3d 141, 145-46 (Alaska 2002) (discussing the Article VI, § 6 “as near as practicable” standard).

⁵⁶⁶ *Hickel v. Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992) (quoting *Kenai Peninsula Borough*, 743 P.2d at 1366).

region or statewide)—meaning “the sum of the absolute values of the two . . . districts with the greatest positive and negative deviations.”⁵⁶⁷

Although deviations of up to 10% were historically permissible without any justification, “newly available technological advances” have made it possible to achieve lower deviations, particularly in urban areas where “population is sufficiently dense and evenly spread” to allow for lower deviations without unduly sacrificing compactness or socio-economic integration.⁵⁶⁸

The quantitative analysis under both federal and state constitutional analyses require the Board to “make an honest and good faith effort to construct districts . . . as nearly of equal population as is practicable.”⁵⁶⁹ The “overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.”⁵⁷⁰ Because of the State’s stricter standard for equal protection, Mat-Su argues the Board must justify any failure to reduce population deviance.⁵⁷¹ This Court disagrees.

In the 2001 redistricting cycle, for instance, the Alaska Supreme Court found a 9.5% deviation across districts within Anchorage to be unconstitutional but “upheld deviations of up to 5%” in other regions.⁵⁷² In part, the Supreme Court’s decision in the 2001 case was due to the Board’s incorrect view that *any* deviation below 10% would automatically satisfy constitutional requirements. Because the 2001 board made no effort to reduce deviations in Anchorage below ten percent, the Court said the burden shifted to the board to demonstrate that further minimizing the deviations would have been impracticable.⁵⁷³ Contrary to Mat-Su’s argument, the Supreme court did not hold the board must justify *any* failure to reduce population deviance.

⁵⁶⁷ *In re 2001 Redistricting Cases*, 44 P.3d at 145.

⁵⁶⁸ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *5 (Alaska Super. Nov. 18, 2013) (citing *In re 2001 Redistricting Cases*, 44 P.3d at 145-46).

⁵⁶⁹ *Hickel*, 846 P.2d at 47.

⁵⁷⁰ *Hickel*, 846 P.2d at 47.

⁵⁷¹ Mat-Su PFFCL at p121 (citing *In re 2001 redistricting Cases*, 44 P.3d 141, 146 (Alaska 2002)).

⁵⁷² *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *5 (Alaska Super. Nov. 18, 2013) (citing *In re 2001 Redistricting Cases*, 44 P.3d at 145-46).

⁵⁷³ *In re 2001 Redistricting Cases*, 44 P.3d at 146.

The Redistricting Board in the 2011-2013 cycle focused on achieving extremely small deviations across the state, resulting in a statewide total deviation of just 4.2% in the final map.⁵⁷⁴ The Superior Court specifically found that those deviations were “very low, lower than necessary to pass constitutional muster”⁵⁷⁵ and noted that the goal of achieving low deviations “must live in harmony with the other constitutional requirements.”⁵⁷⁶

Here, the population deviations challenged by Mat-Su fall within the range of deviations that previous courts have accepted as “minor” and requiring no special justification. The highest deviation of the districts challenged by Mat-Su—House District 25—is just 2.66%.⁵⁷⁷ Among the Mat-Su Region districts, the difference between the highest-population Mat-Su district (District 25) and the lowest-population Mat-Su district (District 30, at 1.10%) is just 1.56%.⁵⁷⁸ And when compared to the Anchorage districts that Mat-Su points to as evidence of unequal voting power, the evidence in the record shows that the deviation between the highest-population Mat-Su district and the lowest-population Anchorage district (District 24, at -1.65%) is just 4.31%.⁵⁷⁹ As a measure of total deviation across different regions, this is within the range of constitutional permissibility.⁵⁸⁰

b) Fair and Effective Representation

The Mat-Su Plaintiffs also suggest the votes of borough residents have been unconstitutionally diluted by the slight over-population of the House districts within the borough. But here again, the evidence supports the conclusion that that these districts

⁵⁷⁴ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *5

⁵⁷⁵ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *7.

⁵⁷⁶ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *6.

⁵⁷⁷ ARB007234 (Population tabulation for 2021 Proclamation).

⁵⁷⁸ *Id.*

⁵⁷⁹ *Id.*

⁵⁸⁰ The Mat-Su Plaintiffs have also suggested that their equal protection rights are implicated by the fact that the Borough has seen higher rates of population growth than any other part of the state, and they expect this trend to continue. But anticipated future growth is not a basis upon which the Board may adjust the boundaries. The Board is constitutionally charged with drawing districts “based upon the population within each house and senate district as reported by the official decennial census of the United States.” Alaska Const. art. VI, § 3. Anticipated future population growth—which may or may not actually occur—does not implicate equal protection issues in the Board’s Final Map.

are the result of relatively careful balancing of constitutional criteria, not any sort of intentional discrimination.

Mat-Su argues the Board failed to accomplish equal population among the districts statewide without justification.⁵⁸¹ It further asserts the Board has a duty to demonstrate the lower deviations available to the Board in several other plans were impracticable in light of competing requirements. Finally, it claims the Board has not proffered any justification, let alone non-discriminatory motivation for its actions.⁵⁸²

It is true that Mat-Su boroughs were overpopulated in several districts in the Final plan. It is also true that the Board had other plans before it when it went on the roadshow that showed lower overall plan deviations.⁵⁸³ But, notably, neither of the two board proposed plans (v.3 and v.4) had lower overall deviations than the final plan.⁵⁸⁴ Mat-Su argues that the over-population of its six districts was the result of discrimination against the Borough. But the evidence demonstrates the slight over-population of the Mat-Su districts results from bringing the 4,000 residents of Valdez into District 29 with the eastern portion of the Mat-Su Borough. As noted previously, this action was constitutionally permissible in light of competing § 6 factors elsewhere.⁵⁸⁵ There is evidence in the record showing the Board considered the possibility of pairing Valdez with Anchorage. That change would have reversed the population ratios that the Mat-Su Borough complains about (over-populating the Anchorage districts and under-populating the Mat-Su Borough). However, the record shows the potential Anchorage pairing was abandoned because it was not feasible within other constitutional parameters, not because of any intent to discriminate against the Mat-Su Borough.⁵⁸⁶ The record does not show evidence

⁵⁸¹ Mat-Su PFFCL at p123.

⁵⁸² Mat-Su PFFCL at p123.

⁵⁸³ See ARB001232 (AFFER Plan showing total plan deviation of 3.36%); ARB001234 (AFFR Plan showing total plan deviation of 4.79%); ARB001435 (Doyon Coalition Plan showing total plan deviation of 5.91%); ARB001482 (Senate Minority Plan showing total plan deviation of 4.77%).

⁵⁸⁴ See ARB001341 (ARB v3 showing total plan deviation of 8.9%); and ARB001388 (ARB v4 showing total plan deviation of 9.19%).

⁵⁸⁵ See, e.g., ARB009210-ARB009224 (Nov. 4 Meeting Tr. at 40:2–54:17) (discussing breaking FNSB boundary, including implications for Valdez and Mat-Su districts).

⁵⁸⁶ E.g., ARB009207 (Nov. 4 Tr. at 37:3-7); ARB009333-ARB009334 (Nov. 4. Tr. at 163:24-164:5); ARB007862 (Nov. 5 Tr. at 5:1-22).

of such discrimination, and the Court concludes that the Board acted reasonably in making these choices.

With respect to overall representation, the Mat-Su Borough appears to have mostly obtained what it asked for in its proposal to the Board. The Mat-Su Borough submitted public testimony stating that it wished to have six House districts⁵⁸⁷—despite having population equivalent to only 5.84 districts⁵⁸⁸—and in the Final Map the Mat-Su Borough indeed controls six districts, four of which are wholly within the Mat-Su Borough and two of which also bring in population from outside the Borough.⁵⁸⁹ If anything, then, the Mat-Su Borough will be slightly over-represented in the House.

4. Valdez Equal Protection

Valdez also challenges the Board's plan on Equal Protection grounds, asserting it has been deprived of fair and effective representation. As noted elsewhere, "fair and effective representation" claims stem from the second component of Equal Protection analysis. Accordingly, this claim addresses whether "the Board acted intentionally to discriminate against the voters of a geographic area,"⁵⁹⁰ in this case voters from Valdez. The right to fair and effective representation may be implicated if members of a particular group are "fenced out of the political process and their voting strength invidiously minimized."⁵⁹¹ A voter's right to an equally geographically effective or powerful vote, while not a fundamental right, represents a significant constitutional interest.⁵⁹²

The Alaska Supreme Court has held that the Board "cannot intentionally discriminate against a borough or any other 'politically salient class' of voters by invidiously minimizing that class's right to an equally effective vote."⁵⁹³ Voters within an incorporated area like a borough are a "politically salient class" of voters.⁵⁹⁴ It is a

⁵⁸⁷ ARB000662-ARB000667.

⁵⁸⁸ *Borromeo Aff.* ¶ 14; see also *Mat-Su Plaintiffs' First Amended Compl.* ¶ 15.

⁵⁸⁹ ARB000017 (overview of Mat-Su districts), ARB000043-ARB000048 (Districts 25-30).

⁵⁹⁰ *In re 2011 Redistricting Cases*, 2013 WL 6074059, at *11 (citing *Kenai Peninsula Borough*, 743 P.2d at 1372).

⁵⁹¹ *Hickel*, 846 P.2d at 49 (quoting *Gaffney v. Cummings*, 412 U.S. 735, 754 (1973)).

⁵⁹² *Kenai*, 743 P.2d at 1372.

⁵⁹³ *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002).

⁵⁹⁴ See *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1370-73 (Alaska 1987) (holding that the Board

violation of Alaska's Equal Protection Clause for the Board to give unequal weight to voters because they reside within an incorporated area.⁵⁹⁵ Similarly, in the context of reapportionment, the Supreme court has held that "upon a showing that the Board acted intentionally to discriminate against the voters of geographic area, the Board must demonstrate that its plan will lead to greater proportionality of representation."⁵⁹⁶

In this case, the question is whether the placement of Valdez in District 29 deprives the citizens of Valdez of fair and effective representation – that is the right to an equally powerful vote.⁵⁹⁷ Stated differently, has Valdez been unconstitutionally denied its chance to effectively influence the political process?⁵⁹⁸ Valdez points to the fact that citizens of the Mat-Su Borough dominate District 29 and constitute 78.5 percent of the population in District 29. It is true the population of District 29 is concentrated in the Palmer and Wasilla areas. Population from Palmer and Wasilla suburbs accounts for 14,306 of the total 18,773 or 76.2 percent of District 29's population.⁵⁹⁹ Valdez accounts for 3,985 of District 29's population or 21.3 percent of the total population.⁶⁰⁰

It is certainly true the Board cannot intentionally discriminate against Valdez,⁶⁰¹ or give unequal weight to particular voters simply because they reside in an incorporated area.⁶⁰² Valdez argues that it should have been paired with its neighbors to the north along the Richardson Highway, or with Prince William Sound communities with which Valdez is *more* socioeconomically integrated. While such a pairing would have been preferred by Valdez, and perhaps been a better fit all things being equal, such a preferred fit does not mean Valdez's placement in District 29 equates to an Equal Protection problem.

may not intentionally dilute the voting power of Anchorage voters to retain the current balance between regional and Anchorage senate representation).

⁵⁹⁵ See *id.*; see also *In re 2001 Redistricting Cases*, 2002 WL 34119573, *29 (Alaska Super. Feb. 1, 2002).

⁵⁹⁶ *Hickel*, 846 P.2d at 49 (citing *Kenai*, 743 P.2d at 1372).

⁵⁹⁷ *Hickel*, 846 P.2d at 47 (quoting, *Kenai*, 743 P.2d at 1363).

⁵⁹⁸ *Kenai*, 743 P.2d at 1368.

⁵⁹⁹ Ex. VDZ-3003 at 31, ¶ 101 (Brace).

⁶⁰⁰ Ex. VDZ-3003 at 1221-22.

⁶⁰¹ *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002).

⁶⁰² See *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1370-73 (Alaska 1987); see also *In re 2001 Redistricting Cases*, 2002 WL 34119573, at *29 (Alaska Super. Feb. 1, 2002).

Valdez's equal protection claim is that its voters will be effectively drowned out by voters in the Mat-Su Borough. But no matter what district Valdez is placed in, nothing changes the fact that Valdez has only 4,000 residents; as such, it will be a minority voice in *any* district.⁶⁰³ Valdez's City Clerk acknowledged as much at trial, testifying that Valdez's population of "[a] little under 4,000" is "not enough people" to make a house district; Valdez must necessarily be paired with approximately 14,335 other people.⁶⁰⁴ "[G]roups of voters are not constitutionally entitled to proportional representation absent invidious discrimination."⁶⁰⁵ Here, there is no evidence demonstrating that Valdez's representation is disproportionate within its district. Nor, in the absence of disproportionality, is there any evidence that Valdez's placement is the result of discrimination.

The only inference of discriminatory intent that might be drawn from the evidence in this case is due to readjustment of District 36 to place the excess Fairbanks population there. Valdez points to the Chairman's refusal to split the FNSB until the last minute as evidence of preferential treatment of other voters. Mathematically, there is little question the final adjustment of the FNSB districts to put an additional 4,000 voters into District 36 resulted in the need to move Valdez to District 29 with Mat-Su. But the evidence does not show the FNSB decision was made with invidious intent. Instead, the need to break the FNSB was recognized by at least some members of the Board early in the process, and they advocated for such a change in order ensure the voters in Fairbanks had a legitimate "one person / one vote" opportunity.⁶⁰⁶

Instead, the record demonstrates that the pairing of Valdez with the Mat-Su Borough in District 29 resulted from the need to balance the competing demands of the § 6 factors across interconnected areas of the state.⁶⁰⁷ The ultimate decision to maintain

⁶⁰³ See ARB004355 (2020 census population for Valdez No. 1 (1,511), Valdez No. 2 (987), and Valdez No. 3 (1,532)).

⁶⁰⁴ Jan. 28 Trial Tr. 1249:15–1250:2.

⁶⁰⁵ *In re 2001 Redistricting Cases*, 44 P.3d at 146.

⁶⁰⁶ See e.g., Deposition of Melanie Bahnke at p167, L12-21 ("I was an advocate for breaking the borough boundary. Because of the one vote/one person, the deviation, it was a factor.")

⁶⁰⁷ See e.g., Deposition of Melanie Bahnke at p79, L12 – p80, L3 ("the whole map is interrelated. If you talk about one part of the state, it will have an effect on the whole rest of the state. When I talked about Fairbanks, . . . you do one thing to one part of the map, it ripples throughout the whole rest of the state.")

the configuration of Valdez and the eastern Mat-Su Borough together in the same district was a direct result of these competing needs, not invidious discrimination. As the Board recognized, the placement of Valdez has been a perpetual challenge because it is in many ways a community with unique interests, and it is large enough to have significant population impacts on any district it is placed in, yet not large enough to control its own district.⁶⁰⁸ The Mayor of Valdez specifically testified that Valdez is “very unique” and somewhat geographically isolated, “a distance from everyone.”⁶⁰⁹ Faced with this challenge, the Board chose a rational and constitutionally satisfactory option that does not impermissibly dilute Valdez residents’ votes.

The Court concludes that Valdez’s placement in House District 29 does not violate Alaska’s Equal Protection Clause.

B. Calista’s Redistricting Challenge

1. Background - Redistricting Process for the Calista Region

The Calista region was split among three districts in the 2013 Proclamation map: District 39 included Chevak, Hooper Bay, and Scammon Bay with Nome; District 38 centered on Bethel and the lower Kuskokwim River; and District 37 picked up several Calista villages to the northeast.⁶¹⁰ The 2020 Census data indicated that the Calista region had a population of 27,034, or approximately 1.47 ideal house districts.⁶¹¹ But none of the maps from the Board’s roadshow managed to keep the Calista region within two districts. The AFFER map districted Chevak, Hooper Bay, and Scammon Bay with Bethel, which was accomplished by shifting Kongiganak, Kwigillingok, and Quinhagak into a district with the Aleutians, and by districting some villages in the Northwest Arctic Borough with Nome.⁶¹² The AFFR map likewise managed to district Chevak, Hooper Bay, and

⁶⁰⁸ Binkley Aff. ¶¶ 23-24; *see also In re 2011 Redistricting Cases*, 2013 WL 6074059, at *16 (“The Board admits they struggled with whether to adopt a Valdez-Anchorage-Richardson Highway District or to split the Mat-Su Borough twice” to create a Valdez-Mat-Su district, the eventual District 9 in the 2013 Proclamation.).

⁶⁰⁹ Jan. 24 Trial Tr. 275:19 (Scheidt Cross).

⁶¹⁰ ARB001618-20.

⁶¹¹ ARB002046; Guy Aff. 3.

⁶¹² ARB001290-92

Scammon Bay with Bethel by populating the Nome district with interior villages.⁶¹³ The Senate Minority map only districted Chevak and Hooper Bay with Bethel.⁶¹⁴ Whereas the Board v.3 and v.4 maps, as well as the Doyon Coalition map, all separated Chevak, Hooper Bay, and Scammon Bay from Bethel in similar fashion.⁶¹⁵

The Alaska Native Corporation (“ANC”) representing the Bethel and Kusilvak census areas, Calista Corporation (“Calista”),⁶¹⁶ involved itself in the redistricting process early on by working with AFFER and Randy Ruedrich.⁶¹⁷ The Board also requested to hear testimony directly from a Calista representative.⁶¹⁸ In response, Thom Leonard submitted comments on behalf of Calista, citing District 40 overpopulation as justification for shifting District 38 north.⁶¹⁹ In public testimony, Leonard noted that Calista had received comments 55 villages in the Bethel area and had scheduled a call with the Association of Village Council Presidents.⁶²⁰ And throughout the process, Ruedrich continued to engage with the Board to seek possible ways to achieve Calista’s requests.⁶²¹

Individuals from the affected Calista villages also participated. As early as July 20, 2021, the Village Chief of Chevak sent a letter to the Board identifying the village’s socio-economic ties to Bethel.⁶²² On August 13, Hooper Bay officials also submitted a letter requesting placement in the same district as Bethel.⁶²³ And in late August, Hooper Bay resident William Naneng testified before the Board in favor of redistricting with Bethel.⁶²⁴ Myron Naneng Sr. from Bethel likewise gave verbal testimony in October on the strong ties between Hooper Bay, Scammon Bay, and Bethel.⁶²⁵

⁶¹³ ARB001338-39.

⁶¹⁴ ARB001526.

⁶¹⁵ ARB001385, 1432, 1479

⁶¹⁶ Guy Aff. 1-3

⁶¹⁷ ARB010067 Tr. 76:8-11.

⁶¹⁸ *Id.* Tr. 12-19.

⁶¹⁹ ARB003079.

⁶²⁰ ARB000182.

⁶²¹ ARB001723, 1733-34.

⁶²² ARB002092.

⁶²³ ARB000501; 1788.

⁶²⁴ ARB000154.

⁶²⁵ ARB003296.

On November 3, the Board engaged in a lengthy discussion regarding Calista's request.⁶²⁶ Member Bahnke, removing her "redistricting board hat [to] speak as a regional tribal leader," opposed Calista's request on the basis of socioeconomic integration.⁶²⁷ Member Borromeo also expressed concern at the notion "that one ANC's voice is more important than another at the regional level."⁶²⁸ But Chair Binkley stated his belief that Calista has "been just as invested" in the process as the Doyon Coalition, so "there is an opportunity not to exclude them from being recognized and listened to and accommodated."⁶²⁹

On November 5, Calista Corporation President and CEO Andrew Guy submitted written testimony seeking the inclusion of Chevak, Hooper Bay, and Scammon Bay in District 38.⁶³⁰ Guy also testified before the Board regarding the Calista region's history of being fractured into multiple districts.⁶³¹ Chair Binkley noted that the Board had tried to accommodate Calista's request but "couldn't achieve consensus."⁶³² He stated that the Board would "take your testimony into account as we look at the final product," and expressed his appreciation and empathy "in terms of not being able to keep the region intact."⁶³³ Randy Ruedrich with AFFER likewise asked the Board to consider at least partially accommodating Calista's request "because they are severely diluted" in terms of senate representation, so moving some Calista villages into District 37 would allow Calista to "at least start to build a small positive majority in that district."⁶³⁴ Upon a second attempt, the Board agreed to move Chevak alone into District 38 and shifted the Kenai Peninsula communities of Port Graham and Nanwalek into District 37.⁶³⁵

⁶²⁶ ARB007273-7294.

⁶²⁷ ARB007278 Tr. 167:25-169:1.

⁶²⁸ ARB007282 Tr. 182:2-4.

⁶²⁹ *Id.* Tr. 182:18-20.

⁶³⁰ ARB002046-47.

⁶³¹ ARB007765 Tr. 87:22-89:19.

⁶³² ARB007766 Tr. 91:16-20

⁶³³ *Id.* Tr. 91:20-24.

⁶³⁴ ARB007783 Tr. 158:24-159:10.

⁶³⁵ ARB007792-7798.

2. Evidence Presented at Trial

At trial, Calista presented the affidavit testimony from several individuals from the Calista region, as well as testimony from Ruedrich as an expert witness. Each of the lay witnesses testified regarding socio-economic ties between Bethel and the three villages of Chevak, Hooper Bay, and Scammon Bay.⁶³⁶ Bethel serves as the Calista region's hub community, so most villages in the Calista region rely on Bethel for everything from transportation to health care.⁶³⁷ There are also strong cultural traditions that connect the whole region, such as the Cama-i Festival in Bethel.⁶³⁸ The first language for many people in the Calista region is Yu'pik, whereas in Nome that language is Inupiaq.⁶³⁹ The three villages maintain few connections to Nome, other than a barge that passes through in summer and some radio stations.⁶⁴⁰

Calista President/CEO Guy referred to Chevak, Hooper Bay, and Scammon Bay as a "sub-region" within the Calista region.⁶⁴¹ The Yukon-Kuskokwim Health Corporation maintains a sub-regional clinic in Hooper Bay.⁶⁴² There is frequent travel between the three villages, as well as intermarriage, but locations outside the sub-region are primarily only reachable by air.⁶⁴³ The three villages share a common food source and deal with similar problems, such as outdated sewer systems and education.⁶⁴⁴ While Hooper Bay and Scammon Bay are in the Yukon School District, Chevak is in its own school district.⁶⁴⁵ One last, poignant sentiment expressed in testimony was that "Hooper Bay should not be used as numbers to meet the requirements of District 39—the Board should have looked at who actually lives in Hooper Bay, and who we are."⁶⁴⁶

⁶³⁶ Guy Aff. 5; Leonard Aff. 3-5, 10; M. Naneng Aff. 4, 8; W. Naneng Aff. 6; Sundown Aff. 6-8.

⁶³⁷ Guy Aff. 5; M. Naneng Aff. 4-5; W. Naneng Aff. 6; Sundown Aff. 6.

⁶³⁸ M. Naneng Aff. 8; Sundown Aff. 7.

⁶³⁹ M. Naneng Aff. 9; W. Naneng Aff. 6.

⁶⁴⁰ W. Naneng Aff. 6-7.

⁶⁴¹ Trial Day 6 Tr. 169:14-19 (Jan. 28, 2022 at 14:38:45 Guy Redirect).

⁶⁴² M. Naneng Aff. 5.

⁶⁴³ Leonard Aff. 10; M. Naneng Aff. 8; Sundown Aff. 8.

⁶⁴⁴ M. Naneng Aff. 7; W. Naneng Aff. 3-4; Sundown Aff. 8.

⁶⁴⁵ Trial Day 6 Tr. 150:15-16 (Jan. 28, 2022 at 14:03:11 Guy Cross); *id.* Tr. 156:25-167:2 (14:11:57) Sundown Aff. 2.

⁶⁴⁶ W. Naneng Aff. 7.

Calista's expert testimony from Ruedrich outlined AFFER's involvement in the redistricting process and its work for Calista.⁶⁴⁷ Ruedrich explained that the purpose of Calista's request to the Board was "to increase the District 37 Calista Region population, which increases the Senate District S Calista Region population."⁶⁴⁸ This could be accomplished by replacing Tyonek, Nanwalek, and Port Graham with other Calista villages.⁶⁴⁹ He opined that including these villages from the Kenai Peninsula Borough in District 37 also violates compactness and socio-economic integration.⁶⁵⁰ Ruedrich also observed that "other than the Calista Region, the Board respected every other ANC's population that it feasibly could."⁶⁵¹

Member Bahnke agreed that Hooper Bay and Scammon Bay share strong socio-economic ties with their hub community of Bethel.⁶⁵² Member Binkley noted that the Board followed the Lower Yukon School District boundary line to divide Districts 37 and 38, reasoning that Hooper Bay and Scammon Bay are socio-economically integrated with other villages in the same school district.⁶⁵³ The Board also attempted to accommodate part of Calista's request by moving Chevak into District 38, but Board Members testified that they did what they could for Calista within the allowable population deviations.⁶⁵⁴

3. Analysis

a) First Claim: (Article VI, Section 6) There Is Sufficient Evidence Of Socio-Economic Integration In The Record To Justify Placing Hooper Bay And Scammon Bay In District 39.

Calista first argues that the Board's inclusion of Hooper Bay and Scammon Bay in District 39 violated Article VI, Section 6 of the Alaska Constitution.⁶⁵⁵ This claim is

⁶⁴⁷ Ruedrich Aff. 1-6.

⁶⁴⁸ Ruedrich Aff. 13.

⁶⁴⁹ Ruedrich Aff. 18-19.

⁶⁵⁰ Ruedrich Aff. 12. Ruedrich was not offered as an expert to testify on regional socio-economic integration, nor does he assert any personal knowledge of non-Calista villages.

⁶⁵¹ Ruedrich Aff. 16.

⁶⁵² Bahnke Aff. 14.

⁶⁵³ Binkley Aff. 17.

⁶⁵⁴ Binkley Aff. 17-18; Bahnke Aff. 13; Torkelson Aff. 38.

⁶⁵⁵ Calista Tr. Br. 2. Calista also briefly raises the argument that it was error to include Tyonek in District 37, but this issue is not pursued any further. The Board did receive testimony requesting that Tyonek be kept with the Kenai Peninsula. ARB002358. Calista also has not introduced any evidence regarding how the inclusion of Nanwalek and Port Graham violate socio-economic integration or compactness.

grounded in the constitutional criteria requiring districts to “contain[] as nearly as practicable a relatively integrated socio-economic area.”⁶⁵⁶ Courts have looked to geographic proximity, cultural and historical ties, transportation connections, and common recreational and commercial areas as relevant factors.⁶⁵⁷ While ANC boundaries may be considered when drawing districts,⁶⁵⁸ unorganized areas have “no constitutional right to be placed in a single house district . . . so long as each portion is integrated, as nearly as practicable, with the district in which it is placed.”⁶⁵⁹ “A district will be held invalid if ‘[t]he record is simply devoid of significant social and economic interaction’ among the communities within an election district.”⁶⁶⁰ The term “relatively” then requires a comparison with “other previously existing and proposed districts as well as principal alternative districts to determine if socio-economic links are sufficient.”⁶⁶¹

At trial, Calista produced several lay witnesses to “address the strong socio-economic integration of the Calista Region with particular emphasis on Hooper Bay, Scammon Bay, Chevak, and Bethel.”⁶⁶² These witnesses all testified that the three villages share much stronger ties with their hub community of Bethel than with Nome.⁶⁶³ Calista therefore asserts that Hooper Bay and Scammon Bay should both be included in District 38 with their sister village of Chevak and their hub community of Bethel.⁶⁶⁴

In response, the Board asserts that Districts 37, 38, and 39 are all sufficiently socio-economically integrated.⁶⁶⁵ The Board points out that even Calista’s preferred plan leaves a number of Calista villages in District 39 while moving others into District 37.⁶⁶⁶ Calista’s socio-economic integration argument thus applies equally to the Lower Kuskokwim villages that Calista proposes moving into District 37.⁶⁶⁷ The Board also points out that

⁶⁵⁶ Alaska Const. art. VI, § 6.

⁶⁵⁷ *Hickel v. Se. Conf.*, 846 P.2d 38, 46-47 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

⁶⁵⁸ See *id.* at 48 (“[W]e implied that adherence to Native corporation boundaries might also provide justification [for population deviations], as long as the boundaries were adhered to consistently.”).

⁶⁵⁹ *In re 2001 Redistricting Cases*, 44 P.3d 141, 144-45 (Alaska 2002).

⁶⁶⁰ *Hickel*, 846 P.2d at 46 (quoting *Carpenter v. Hammond*, 667 P.2d 1204, 1215 (Alaska 1983)).

⁶⁶¹ *Id.* at 47.

⁶⁶² Calista Tr. Br. 7.

⁶⁶³ M. Naneng Aff. 8; Sundown Aff. 6-8; W. Naneng Aff. 7.

⁶⁶⁴ Calista Tr. Br. 7.

⁶⁶⁵ Board Tr. Br. 59-60.

⁶⁶⁶ Board Tr. Br. 61.

⁶⁶⁷ Board Tr. Br. 62.

Hooper Bay and Scammon Bay, as well as Chevak, have all been grouped with Nome in previous redistricting cycles.⁶⁶⁸

Although Calista has legitimate reasons for wanting to shift Hooper Bay and Scammon Bay into District 38, those reasons do not amount to a constitutional violation. Whereas “respecting local government boundaries is discretionary” under Article VI, Section 6,⁶⁶⁹ there is no constitutional right for unorganized areas to be grouped in the same district. The Calista region has not organized into a borough. Thus, so long as there are sufficient socio-economic ties on the record between Hooper Bay, Scammon Bay, and the other areas in District 39, this court must uphold the Board’s decision. In this case, all of the Calista villages in District 39 are part of the same school district and thus share significant ties.⁶⁷⁰ While there is less evidence of meaningful ties to Nome, there are some connections—including a barge that travels up the coast in summer⁶⁷¹—and the fact that both Hooper Bay and Scammon Bay were previously in the same district as Nome also weighs in the Board’s favor.⁶⁷² All of the communities in District 39 are also connected by virtue of their proximity to the Bering Sea and Norton Sound.⁶⁷³

b) Second Claim: Calista Has Presented No Evidence Of Intentional Discrimination And Thus Cannot Establish An Equal Protection Violation Under Article I, Section 1.

Calista next argues that the Board’s final plan impermissibly dilutes the Calista’s region’s right to an equally effective vote and thus violates Article I, Section 1 of the Alaska Constitution.⁶⁷⁴ To establish an equal protection violation in this context, the challenger must make “a showing that the Board acted intentionally to discriminate against the voters of a geographic area,” after which “the Board must demonstrate that its plan will lead to greater proportionality of representation.”⁶⁷⁵ Aside from intentional discrimination, “the

⁶⁶⁸ Trial Day 6 Tr. 159:24-160:12 (Jan. 28, 2022 at 14:16:12 Guy Cross).

⁶⁶⁹ *In re 2001 Redistricting Cases (2001 Appeal II)*, 47 P.3d 1089, 1091 (Alaska 2002).

⁶⁷⁰ Binkley Aff. 17.

⁶⁷¹ W. Naneng Aff. 6.

⁶⁷² ARB001619; W. Naneng Aff. 5.

⁶⁷³ Calista Ex. 5002; see also *Carpenter v. Hammond*, 667 P.2d 1204, 1215 (Alaska 1983) (noting that location within “a common geographic region” also supports socio-economic integration).

⁶⁷⁴ Calista Tr. Br. 2-3.

⁶⁷⁵ *Hickel v. Se. Conf.*, 846 P.2d 38, 49 (Alaska 1992), as modified on reh’g (Mar. 12, 1993); accord *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987).

division of a borough which otherwise has enough population to support an election district will be an indication of gerrymandering,” which would then require the Board to provide “some legitimate justification for not preserving the government boundaries.”⁶⁷⁶

Calista argues that “the house and senate districts created by the Board dilute the voting power of the Calista Region and deprive residents of the Calista Region of their right to an equally effective vote.”⁶⁷⁷ Calista asserts that the Board acted to preserve ANC boundaries elsewhere, and yet only Calista has been fractured into three house districts and two senate districts.⁶⁷⁸ As a result, Calista argues this unequal treatment effectively diluted the Calista region’s voting power, and thus violates the Equal Protection Clause.⁶⁷⁹

The Board responds that Calista, as “a for-profit company,” is not entitled to control any senate seats.⁶⁸⁰ The Board argues that Calista has not shown any intent to discriminate, nor has it explained how its vote has been diluted to the benefit of any urban areas.⁶⁸¹ The Board notes that Calista is the only ANC that has full control over a single house district, and that the final plan already gives Calista a majority in a senate district.⁶⁸² Finally, the Board argues that whereas fracturing a borough with sufficient population to control a senate seat may give rise to an inference of discrimination, no case has extended that reasoning to unincorporated areas or ANC regions.⁶⁸³

Although Calista is correct on the facts, the Board is correct on the law. To establish an equal protection claim, Calista must either prove intentional discrimination or raise an inference thereof.⁶⁸⁴ It has not accomplished either. Instead, Calista has shown

⁶⁷⁶ *Hickel*, 846 P.2d at 51 n.20; see also *In re 2011 Redistricting Cases (2011 Appeal I)*, 274 P.3d 466, 469 (Alaska 2012) (acknowledging voter dilution claim for “voters making up only 51 percent of an ideal senate district”).

⁶⁷⁷ Calista Tr. Br. 2-3.

⁶⁷⁸ Calista Tr. Br. 1-2.

⁶⁷⁹ Calista Tr. Br. 1-3.

⁶⁸⁰ Board Tr. Br. 63. The Board also argues that the Calista region is not a “politically salient class,” unlike boroughs and municipalities, and thus has right to fair and effective representation. Trial Day 12 Tr. 190:17-22 (Board closing argument). But the Board subsequently concedes that the Calista region would be protected as “members of a politically salient class, Alaska Natives.” Trial Day 12 Tr. 190:22-191:8 (Board closing argument). This court will assume without deciding that Calista can bring an equal protection dilution claim.

⁶⁸¹ Board Tr. Br. 63.

⁶⁸² Board Tr. Br. 81; *Borromeo Aff.* 22.

⁶⁸³ Board Tr. Br. 81.

⁶⁸⁴ *Hickel v. Se. Conf.*, 846 P.2d 38, 49-51 (Alaska 1992), as modified on reh'g (Mar. 12, 1993).

that the Board did intentionally act to preserve other ANC boundaries, but it was unable to preserve the Calista region.⁶⁸⁵ This failure to keep the Calista region intact is relevant to the question whether an inconsistent application of ANC boundaries can justify deviations from other Section 6 criteria elsewhere,⁶⁸⁶ but it does not raise an inference of discriminatory intent where District 38 is comprised entirely of the Calista region, thus giving Calista majority representation in Senate District S.⁶⁸⁷ Calista has also shown a history of diluted representation.⁶⁸⁸ Whereas this is a necessary precursor to a voter dilution claim under federal equal protection jurisprudence, it is not actually relevant to the state equal protection analysis under Article I, Section 1.⁶⁸⁹

Although the end result may appear unfair to Calista, the Board's preservation of ANC boundaries elsewhere was informed by traditional redistricting principles. Many ANC regions also have overlapping borders with boroughs, such as NANA and the Northwest Arctic Borough, or Bristol Bay Native Corporation and the Lake and Peninsula Borough.⁶⁹⁰ Others, such as Doyon Limited, are bordered by organized boroughs, such as the North Slope Borough. But the Calista region is unique in the respect that it shares very few borough boundaries. Only the sparsely populated northeastern panhandle of the Calista region touches any neighboring boroughs.⁶⁹¹ Where the Board accommodated "local government boundaries" to draw districts, it was simply complying with the language of Article VI, Section 6. That other ANC regions closely follow borough boundaries and thus remained substantially intact in the Board's final plan is largely circumstantial. The Calista

⁶⁸⁵ See, e.g., Binkley Aff. 13. While this court believes it was highly inappropriate for Member Bahnke to remove her "redistricting board hat" and advocate against Calista, because the Board ultimately made a good-faith attempt to accommodate Calista's request and moved Chevak into District 38, any harm is de minimis. *But cf. Hickel*, 846 P.2d at 49 (noting that under Alaska Constitution's equal protection clause, courts will "not consider any effect of disproportionality de minimis when determining the legitimacy of the Board's purpose"). This result would be different if the Board adopted Member Bahnke's position.

⁶⁸⁶ Using ANC "boundaries in districting might constitute justification for some population deviation," but when that criterion is not consistently applied, such boundaries "cannot justify the discrepancy." *Groh v. Egan*, 526 P.2d 863, 877 (Alaska 1974).

⁶⁸⁷ Ruedrich Aff. 11-12. And because the Calista region only had enough population for 1.47 ideal house districts (as opposed to 1.51), Calista cannot raise an inference of discrimination as a result of splitting that remainder between Districts 39 and 37.

⁶⁸⁸ See Guy Aff. 3; Binkley Depo. Tr. 231:1-234:10.

⁶⁸⁹ See *Hickel*, 846 P.2d at 49 (noting that Alaska's "more strict standard" requires no "showing of a pattern of discrimination").

⁶⁹⁰ ARB000012; Calista Ex. 5002.

⁶⁹¹ ARB000055; Calista Ex. 5000-02.

region has more than enough population for a single house district, so not every Calista village can be grouped with Bethel without excessive population deviations. Given the size of the Calista region population, its geographical location, and the lack of surrounding local government boundaries, it was reasonable for the Board to assign certain groupings of villages into Districts 37 and 39 as necessary to populate those districts.

4. Summary of Calista Claims

Calista's first claim that Districts 37, 38, and 39 violate Article VI, Section 6 is therefore rejected. Calista's second claim asserting an equal protection violation is also rejected.

C. Skagway's Redistricting Challenge

1. Redistricting Process for Skagway and Juneau

For previous election cycles, the 2013 Proclamation map districted Skagway and Downtown Juneau together in District 33, while Mendenhall Valley and northern Juneau formed District 34.⁶⁹² Of the maps the Board took on its roadshow, two mirrored the existing districts while adjusting the dividing line northward: the Doyon Coalition and Senate Minority Caucus maps.⁶⁹³ The Board v.4 map also districted Skagway with Downtown Juneau while attempting to keep Mendenhall Valley intact in a donut hole.⁶⁹⁴ The AFFR map joined Skagway in a district with Yakutat and Sitka, then it divided Juneau near the airport to separate Mendenhall Valley from Downtown.⁶⁹⁵ Only the Board v.3 and AFFR maps placed Skagway with Auke Bay and part of Mendenhall Valley.⁶⁹⁶

The Board held the first public hearing of its roadshow in Juneau on September 27.⁶⁹⁷ The Board specifically sought to elicit comment on "where Haines and Skagway belong" and whether Juneau residents believed the Board has "broken up your region

⁶⁹² ARB001614.

⁶⁹³ ARB001397, 1445.

⁶⁹⁴ ARB001521.

⁶⁹⁵ ARB001302-03.

⁶⁹⁶ ARB001257, 1351.

⁶⁹⁷ ARB001699.

appropriately.”⁶⁹⁸ Of the public testimony regarding Skagway’s placement, many expressed support for keeping it districted with Downtown Juneau.⁶⁹⁹ And in regard to where the dividing line for Juneau should be, an overwhelming majority favored keeping the Mendenhall Valley intact by drawing the boundary at Lemon Creek, Sunny Point, or Fred Meyer.⁷⁰⁰ Residents also expressed support for the Doyon Coalition, AFFR, and Senate Minority maps.⁷⁰¹ The only specific comment received on Board v.3 was negative.⁷⁰²

Although one was not initially scheduled, Skagway also requested a public hearing, so the Board held a conference over Zoom.⁷⁰³ The Board heard near-unanimous testimony that Skagway residents preferred to remain districted with Downtown Juneau.⁷⁰⁴ This testimony included Members of the Skagway Borough Assembly, as well as the Mayor.⁷⁰⁵ Only one individual testified for districting Skagway with “the north part of Juneau.”⁷⁰⁶ Written comments received by the Board likewise reflected a clear desire to both keep Skagway with Downtown Juneau, and keep Mendenhall Valley intact.⁷⁰⁷

On November 2, the Board began debate on which map to adopt for Southeast Alaska. Member Simpson, arguing in favor of Board v.3, noted that he “never understood” why the “existing structure has a Juneau doughnut hole,” discounting the importance of tourism because “every place in Southeast has cruise ships going to it.”⁷⁰⁸ Member Simpson dismissed the testimony from Skagway: “So I just—I feel strongly that the north end from the Lynn Canal community connects better with Haines and Skagway. I know what Skagway said about it. I don’t know why they said that.”⁷⁰⁹ Member Simpson rejected

⁶⁹⁸ Skagway Ex. 2004 Tr. 11:18-25 (Sept. 27, 2021).

⁶⁹⁹ Skagway Ex. 2004 Tr. 21:1-6, 37:25-38:6; 44:11-19; 46:20-22 (Sept. 27, 2021).

⁷⁰⁰ Skagway Ex. 2004 Tr. 23:24-25, 25:25-26:12, 38:3-6, 41:18-20, 43:1-4, 47:1-4, 48:20-23 (Sept. 27, 2021).

⁷⁰¹ Skagway Ex. 2004 Tr. 24:14-17, 32:8-14, 33:9-13, 38:9-11 (Sept. 27, 2021).

⁷⁰² Skagway Ex. 2004 Tr. 28:21-25 (Sept. 27, 2021).

⁷⁰³ Cremata Aff. 15.

⁷⁰⁴ Skagway Ex. 2005 Tr. 12:13-22, 18:25-19:3 (Oct. 27, 2021).

⁷⁰⁵ Skagway Ex. 2005 Tr. 12:1-2, 13:21-22, 18:24-25 (Oct. 27, 2021); Walsh Aff. 16.

⁷⁰⁶ Skagway Ex. 2005 Tr. 31:1-9 (Oct. 27, 2021). This same individual submitted written comments raising the same arguments. ARB002630.

⁷⁰⁷ ARB001823, 1947, 2124, 2126, 2145, 2393, 2569, 2936-37, 3002, 3018, 3073, 3120, 3195, 3211, 3276, 3422, 3476, 3924, 4009, 4263. *But see* ARB001924, 2206, 2243, 2998, 3189, 3268.

⁷⁰⁸ ARB008656 Tr. 90:25-91:6.

⁷⁰⁹ *Id.* Tr. 91:15-18.

the Doyon Coalition proposal out-of-hand, saying that he “know[s] more about Juneau, Haines, and Skagway than Doyon does,” and accordingly was “not giving them as much deference for that.”⁷¹⁰ And Member Marcum stated that she would “defer” to Member Simpson on the Southeast Alaska districts.⁷¹¹

Member Borromeo countered that Skagway “request[ed] a special meeting” and the Board “heard testimony from Skagway” where “they reiterated their desire as a borough to remain with Downtown Juneau.”⁷¹² Member Borromeo also summarized the Juneau testimony, “which was keep Haines and Skagway with Downtown Juneau versus the Valley.”⁷¹³ In that respect, Member Borromeo noted that the comments from both Skagway and Juneau differed from “Budd’s point of view and how he’s drawn the map.”⁷¹⁴ While not raising an “objection” to Member Simpson’s map, Member Borromeo sought more time to consider the Southeast.⁷¹⁵

At the November 4 meeting, the Board took one final look Southeast Alaska. Referring to “the doughnut hole version,” Member Simpson reiterated that the Board v.4 map, which connected Skagway and Downtown Juneau, “doesn’t make socioeconomic sense to me, as a resident of those districts.”⁷¹⁶ He also noted “that Sealaska, the regional corporation, said that they were fine with this approach.”⁷¹⁷ Member Borromeo responded:

So this—this part of the region does still give me pause, because we heard from actually Doyon Coalition early on that included Sealaska that the boroughs of Skagway and Haines would remain with downtown. So maybe they’ve changed their mind, or at least Sealaska has. I haven’t seen anything there, so I’ll have to go back and look.

But I do know from being in the region a couple of times and talking to the residents of Juneau when we held public hearing, the sentiment that I got from the community was that they really did want to be redistricted with

⁷¹⁰ ARB008665 Tr. 128:14-17.

⁷¹¹ ARB008664 Tr. 123:14; ARB008665 Tr. 129:9.

⁷¹² ARB008656 Tr. 92:4-10.

⁷¹³ ARB008660 Tr. 108:20-22.

⁷¹⁴ ARB008663 Tr. 120:12-15.

⁷¹⁵ ARB008664 Tr. 124:19-24.

⁷¹⁶ ARB009081 Tr. 18:1-7.

⁷¹⁷ *Id.* Tr. 18:10-12.

Haines and Skagway downtown. Skagway requested a special meeting after we had been to the region twice, reaffirmed its position that they would like to remain districted with downtown versus Juneau—versus the Valley, excuse me.

And the weight of the testimony, in my mind, weighs in favor of keeping Haines and Skagway, who are currently districted with downtown Juneau, in the downtown Juneau district.⁷¹⁸

Member Borromeo noted that she had adjusted Board v.4 and “moved the boundary line to Sunny Point, like the residents had requested in Juneau,” so that it was “at Fred Meyer.”⁷¹⁹ Member Borromeo reiterated that “this is just a hard one . . . because we had such good input from the folks in the region,” but she was “prepared to accept Budd’s recommendation here” and “just want[ed] all of those concerns noted on the record.”⁷²⁰ The Board then proceeded to adopt Member Simpson’s Board v.3 map as amended for Southeast Alaska with no objections.⁷²¹

2. Evidence Presented at Trial

Skagway presented testimony from a number of lay witnesses regarding strong socio-economic ties to Downtown Juneau, as well as expert testimony from Kimball Brace. The lay witnesses all testified that Skagway’s reliance on the tourism industry creates a logical connection with Downtown Juneau.⁷²² The witnesses likewise recounted overwhelming public testimony contrary to the Board’s final plan.⁷²³ Skagway also offered evidence that Mendenhall Valley residents might actually favor policies contrary to Skagway’s interests.⁷²⁴ Skagway’s expert witness then provided two alternative maps that would satisfy the constitutional criteria while at the same time respecting the wishes of the majority of Skagway and Juneau residents.⁷²⁵ Both could be accomplished without affecting the boundaries for any other districts.⁷²⁶

⁷¹⁸ *Id.* Tr. 18:15-19:10; JRDB-20211105-0900_2 at 22:00-24:00.

⁷¹⁹ ARB009081 Tr. 20:11-16.

⁷²⁰ *Id.* Tr. 20:20-21:6.

⁷²¹ ARB009082 Tr. 22:15-18.

⁷²² Cremata Aff. 6-11; Ryan Aff. 5-9; Walsh Aff. 6-11; Wrentmore Aff. 8-13.

⁷²³ Cremata Aff. 15-16; Walsh Aff. 15-16; Trial Tr. 1871:11-1872:14 (Feb. 3, 2022).

⁷²⁴ Cremata Aff. 4 (cruise control efforts).

⁷²⁵ Brace Corrected Aff. 42-44.

⁷²⁶ Trial Tr. 1944:15-23, 1956:7-12 (Feb. 4, 2022).

Member Simpson testified that due to his “residence in Juneau and familiarity with the geography and communities of Southeast Alaska,” he “took the lead for the Board in drawing the new house districts for this region,”⁷²⁷ and that other Members deferred to his opinions.⁷²⁸ In drawing Districts 3 and 4, Member Simpson stated that he began at the southern border of the City and Borough of Juneau, then “drew the northern line by gathering census blocks moving outward from downtown Juneau, stopping when [he] had sufficiently populated the district.”⁷²⁹ He described the 2013 map connecting Skagway with Downtown Juneau as a “Pac-Man,” opining that it “never made sense to me,”⁷³⁰ but eventually conceded that that configuration was also “highly defensible.”⁷³¹ Instead, Member Simpson stated that the final map’s Downtown Juneau district was “significantly more compact.”⁷³² Although he “made a point of listening to the public testimony,” Member Simpson “never felt that the public testimony was a vote or a scientific survey” and only “took that for what it was worth.”⁷³³ But Member Simpson agreed that “the preponderance of testimony” from both Skagway and Juneau was in favor of keeping Skagway with Downtown Juneau.⁷³⁴ Neither he nor Member Borromeo could recall any public testimony in favor of dividing Mendenhall Valley.⁷³⁵

3. Analysis

a) First Claim: The Board Did Not Violate Article VI, Section 6 By Districting Skagway With Mendenhall Valley Instead Of Downtown Juneau Regardless Of Socio-Economic Evidence To The Contrary.

⁷²⁷ Simpson Aff. 2.

⁷²⁸ Trial Tr. 1800:2-17 (Feb. 3, 2022).

⁷²⁹ Simpson Aff. 8-9.

⁷³⁰ Simpson Aff. 12; Trial Tr. 1851:4-12 (Feb. 3, 2022).

⁷³¹ Simpson Depo. Tr. 108:3-109:1.

⁷³² Simpson Depo. Tr. 111:1-2; Trial Tr. 1865:4-6 (Feb. 3, 2022).

⁷³³ Simpson Depo. Tr. 153:19-154:6.

⁷³⁴ Trial Tr. 1804:8-1805:16 (Feb. 3, 2022).

⁷³⁵ Simpson Depo. Tr. 115:22-117:9; Borromeo Depo. Tr. 94:4-95:16.

Skagway's primary claim is that the Board violated the constitutional criteria for district borders by not including it with Downtown Juneau, with which it has greater socio-economic ties.⁷³⁶ Article VI, Section 6 provides that districts must "contain[] as nearly as practicable a relatively integrated socio-economic area." Relevant factors for determining socio-economic integration include "ferry and daily air service, geographical similarities and historical economic links."⁷³⁷ The qualifier "relatively" then requires a comparison with "other previously existing and proposed districts as well as principal alternative districts."⁷³⁸ Areas within the same municipality or borough are "by definition socio-economically integrated" with each other.⁷³⁹ As discussed earlier, in *Kenai Peninsula Borough v. State*, the Alaska Supreme Court considered whether sufficient socio-economic ties existed between North Kenai and South Anchorage.⁷⁴⁰ Although the evidence established ample "links between the Cities of Kenai and Anchorage," the record contained "minimal" evidence of socio-economic integration between the two satellite communities.⁷⁴¹ But the Court reasoned that "both are linked to the hub of Anchorage,"⁷⁴² and any distinction between the sub-regions was "too insignificant to constitute a basis for invalidating the state's plan."⁷⁴³

Skagway argues that the cruise ship industry is a major economic driver in both Skagway and Downtown Juneau, meaning that those ports share more socio-economic integration than other parts of Juneau.⁷⁴⁴ Because most government offices as well as professional and recreational services are located in Downtown, Skagway citizens visiting

⁷³⁶ Skagway Trial Br. 60-101. Although Skagway also attempts to make an equal protection argument, it is identical to Skagway's socio-economic integration claim and thus does not merit being addressed twice. See Skagway PFFCL 155-56.

⁷³⁷ *Hickel v. Se. Conf.*, 846 P.2d 38, 47 (Alaska 1992), as modified on reh'g (Mar. 12, 1993).

⁷³⁸ *Id.*

⁷³⁹ *In re 2001 Redistricting Cases (2001 Appeal I)*, 44 P.3d 141, 146 (Alaska 2002); see also *Hickel*, 846 P.2d at 51 ("[A] borough must have a population which 'is interrelated and integrated as to its social, cultural, and economic activities.'" (quoting AS 29.05.031(a)(1)).

⁷⁴⁰ 743 P.2d 1352, 1362 (Alaska 1987).

⁷⁴¹ *Id.*

⁷⁴² *Id.* at 1363.

⁷⁴³ *Id.* at 1363 n.17; accord *Hickel*, 846 P.2d at 46 ("In areas where a common region is divided into several districts, significant socio-economic integration between communities within a district outside the region and the region in general 'demonstrates the requisite interconnectedness and interaction,' even though there may be little actual interaction between the areas joined in a district." (quoting *Kenai*, 743 P.2d at 1363)).

⁷⁴⁴ Skagway Trial Br. 68-72.

Juneau on business primarily conduct their business there.⁷⁴⁵ In contrast, the bedroom community of Mendenhall Valley shares few of those concerns, and may even hold conflicting priorities.⁷⁴⁶ Skagway also observes that the Board ignored the fact that public testimony “was overwhelmingly against” splitting Mendenhall Valley and separating Skagway from Downtown.⁷⁴⁷ The Board responds that Skagway is geographically closer to Auke Bay and Mendenhall Valley, and the ferry terminal in Auke Bay illustrates transportation links.⁷⁴⁸ The Board also points to case law, arguing that Skagway’s position is nearly identical to that foreclosed by *Kenai*.⁷⁴⁹ And whether Mendenhall Valley is split is also irrelevant as “communities within a single borough are *by definition* socio-economically integrated.”⁷⁵⁰

To the extent that Skagway asserts that the constitutional criteria of relative socio-economic integration commands its inclusion in a district with Downtown Juneau as opposed to Auke Bay and Mendenhall Valley, the Board is correct. If Skagway is socio-economically integrated with the City and Borough of Juneau,⁷⁵¹ then that holds true for all portions thereof.⁷⁵² Skagway’s arguments are effectively foreclosed by *Kenai*, which addressed nearly identical claims.⁷⁵³ Both District 3 and 4 are contiguous, compact, and relatively socio-economically integrated—Skagway does not argue otherwise. This court thus finds no violation of any criteria in Article VI, Section 6.

X. HICKEL PROCESS

⁷⁴⁵ Skagway Trial Br. 76-82.

⁷⁴⁶ Skagway Trial Br. 72; Cremata Aff. 3-4.

⁷⁴⁷ Skagway Trial Br. 66, 87-92.

⁷⁴⁸ Board Trial Br. 48-50.

⁷⁴⁹ Board Trial Br. 49.

⁷⁵⁰ Board Trial Br. 50 (emphasis in original).

⁷⁵¹ In *Groh v. Egan*, the Court specifically held that Skagway and all of Juneau are socio-economically integrated. 526 P.2d 863, 879 (Alaska 1974). Skagway, of course, does not assert otherwise.

⁷⁵² Failing to keep Mendenhall Valley intact likewise has no constitutional ramifications. See *2001 Appeal I*, 44 P.3d 141, 146 (Alaska 2002) (holding that preservation of “neighborhood boundaries” in densely populated areas is unnecessary when the municipality “is by definition socio-economically integrated”).

⁷⁵³ However, *Kenai* predates the 1998 amendments to Article VI by over ten years. In other words, at the time that *Kenai* was decided, “public hearings” were not a constitutional requirement but simply a matter of executive fiat. Therefore, Skagway’s argument that the Board wholly ignored public testimony on Skagway’s socio-economic links to Downtown Juneau is cognizable not under Section 6 but under Section 10. This is addressed in a separate section.

The challengers raise procedural claims based on the *Hickel* process. In *Hickel v. Southeast Conference*, the Alaska Supreme Court cautioned against elevating the Voting Rights Act “so that the requirements of the Alaska Constitution are unnecessarily compromised.”⁷⁵⁴ The Court explained how the Board must harmonize competing interests under the Alaska Constitution and the Voting Rights Act (“VRA”):

The Board must first design a reapportionment plan based on the requirements of the Alaska Constitution. That plan then must be tested against the Voting Rights Act. A reapportionment plan may minimize article VI, section 6 requirements when minimization is the only means available to satisfy Voting Rights Act requirements.⁷⁵⁵

This hierarchy became what is known as the “*Hickel* process.”⁷⁵⁶ The Court reasoned that focusing on VRA considerations “limit[s] the Board’s ability to consider a wide range of plans to achieve maximum constitutional compliance.”⁷⁵⁷ Adhering to the *Hickel* process therefore “diminishes the potential for partisan gerrymandering and promotes trust in government.”⁷⁵⁸ In essence, the Board must “ensur[e] that traditional redistricting principles are not ‘subordinated to race.’”⁷⁵⁹ But if deviations from the Alaska Constitution become necessary to comply with the VRA, then “the Board must endeavor to adopt a redistricting plan that includes the least deviation reasonably necessary to satisfy the Act, thereby preserving the mandates of the Alaska Constitution to the greatest extent possible.”⁷⁶⁰

But subsequent decisions have done relatively little to clarify what types of actions or inactions violate the *Hickel* process. In 2012 the Court held that the Board violated *Hickel* when it began drawing districts by proactively “focusing on complying with the Voting Rights Act.”⁷⁶¹ The Board thus intentionally set out to “create[] five effective Native

⁷⁵⁴ *Hickel v. Se. Conf.*, 846 P.2d 38, 52 n.22 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

⁷⁵⁵ *Id.*

⁷⁵⁶ *In re 2011 Redistricting Cases (2011 Appeal III)*, 294 P.3d 1032, 1034 (Alaska 2012).

⁷⁵⁷ *Id.* at 1038.

⁷⁵⁸ *In re 2011 Redistricting Cases (2011 Appeal I)*, 274 P.3d 466, 468 (Alaska 2012).

⁷⁵⁹ *Id.* (quoting *Bush v. Vera*, 517 U.S. 952, 959 (1996)).

⁷⁶⁰ *Id.*

⁷⁶¹ *Id.* at 467.

house districts, one ‘influence’ house district, and three effective Native senate districts.”⁷⁶² The Court remanded to the Board with instructions:

The Board must first design a plan focusing on compliance with the article VI, section 6 requirements of contiguity, compactness, and relative socioeconomic integration; it may consider local government boundaries and should use drainage and other geographic features in describing boundaries wherever possible. Once such a plan is drawn, the Board must determine whether it complies with the Voting Rights Act and, to the extent it is noncompliant, make revisions that deviate from the Alaska Constitution when deviation is “the only means available to satisfy Voting Rights Act requirements.”⁷⁶³

The Court also ordered the Board to make findings “that the initially designed plan complies with the requirements of the Alaska Constitution” before making findings on VRA compliance in order to “expedite judicial review.”⁷⁶⁴ On the Board’s second attempt, the Court remanded again “because the Board assumed that its unchallenged districts were constitutional” and thus left the majority of its prior redistricting plan intact.⁷⁶⁵ This time the Court clarified “that the initial map drawn by the Board should not be affected by VRA considerations in any way.”⁷⁶⁶ The Court explained that *Hickel* required the Board to use “the Alaska Constitution’s requirements of compactness, contiguity, and socio-economic integration . . . as the primary consideration.”⁷⁶⁷

The parties cite a number of instances suggesting that the Board inappropriately considered race and the VRA in a manner that violated the *Hickel* process. On August 24, while the Board was in a mapping work session, the Board’s districting software was configured to display racial data at the request of Member Bahnke, including the percentage of Alaska Natives in any given district.⁷⁶⁸ Member Bahnke then proceeded to draw what would become Districts 36, 38, 39, and 40, beginning on the North Slope

⁷⁶² *Id.*

⁷⁶³ *Id.* at 467-68 (quoting *Hickel v. Se. Conf.*, 846 P.2d 38, 52 n.22 (Alaska 1992), as modified on reh’g (Mar. 12, 1993)).

⁷⁶⁴ *Id.* at 468 n.15.

⁷⁶⁵ *2011 Appeal III*, 294 P.3d 1032, 1036 (Alaska 2012).

⁷⁶⁶ *Id.* at 1037.

⁷⁶⁷ *Id.* at 1038.

⁷⁶⁸ Board Ex. 1021 Tr. 204:4-10 (Aug. 24, 2021); JRDB-20210824-0900_0 at 4:48:00-30 (Aug. 24, 2021).

Borough and working down the western coast.⁷⁶⁹ At several points she asked questions about why certain rural regions did not have a higher percentage of Alaska Natives,⁷⁷⁰ or to what extent race factors into socio-economic integration.⁷⁷¹ The Board was also informed that in the previous redistricting cycle the VRA required a threshold percentage of 45.2% Alaska Native voting age population.⁷⁷² The parties contend that the districts drawn in the August 24 work session were “substantially similar to those adopted in the Final Plan,”⁷⁷³ and were thus “locked in” at a very early stage.⁷⁷⁴

The parties also note that during the last few days before finalizing house districts, the Board had begun referring to Districts 37, 38, 39, and 40 as the “VRA districts.”⁷⁷⁵ The decision to include Tyonek, Nanwalek, and Port Graham in District 37 on November 4 was likewise based on “VRA considerations.”⁷⁷⁶ The parties assert that even before then “the Board was fully aware of the historic VRA Districts.”⁷⁷⁷ And Board Members expressed a desire to engage its VRA consultants “as soon as practicable” early in the process.⁷⁷⁸

If the *Hickel* process means that the Board can never consider VRA implications prior to adoption of the final house plan, then the Board is clearly in violation. The Board heard from its consultants regarding VRA compliance of the proposed plans on November 2,⁷⁷⁹ three days before the Board adopted the final plan on November 5.⁷⁸⁰ The Board made very few changes to the so-called VRA districts throughout the entire process.⁷⁸¹ Indeed, all of the Board’s proposed plans contain identical VRA districts.⁷⁸² Not only was the Board made aware of past VRA districts and requirements,⁷⁸³ it was capable of

⁷⁶⁹ See JRDB-20210824-0900_0 at 4:40:45-6:45:00 (Aug. 24, 2021).

⁷⁷⁰ Board Ex. 1021 Tr. 204:11-15; 287:20-23 (Aug. 24, 2021).

⁷⁷¹ Board Ex. 1021 Tr. 331:7-10, 333:20-24 (Aug. 24, 2021).

⁷⁷² Board Ex. 1021 Tr. 337:16-23 (Aug. 24, 2021).

⁷⁷³ Valdez PFFCL 115.

⁷⁷⁴ Mat-Su PFFCL 114.

⁷⁷⁵ Mat-Su PFFCL 114; ARB008647-49 Tr. 55:12, 57:19, 64:15 (Nov. 2, 2021).

⁷⁷⁶ Calista PFFCL 71; ARB009099 Tr. 90:16-91:13 (Nov. 4, 2021); Borromeo Depo. Tr. 258:8-17.

⁷⁷⁷ Valdez PFFCL 116; Torkelson Depo. Tr. 124:13-125:5.

⁷⁷⁸ Valdez PFFCL 116; ARB 009932 Tr. 108:9-16 (Sept. 9, 2021).

⁷⁷⁹ ARB000196-97.

⁷⁸⁰ ARB000208-09.

⁷⁸¹ Compare ARB000012 (final plan), with ARB010765 (Board v.1).

⁷⁸² See ARB001342, 1389, 10765, 10821.

⁷⁸³ Board Ex. 1021 Tr. 331:7-10, 333:20-24 (Aug. 24, 2021); Torkelson Depo. Tr. 124:13-125:5.

viewing and had racial data displayed during several public work sessions in August and September.⁷⁸⁴ And if anything, *Shelby County v. Holder*⁷⁸⁵ heightens the necessity for strict adherence to the *Hickel* process. Because VRA preclearance is no longer a looming threat to the validity of redistricting plans in Alaska,⁷⁸⁶ there is very little need to even conduct a VRA analysis post-*Shelby County*.

However, if the *Hickel* process simply means that the Board should not run any VRA analysis until after it has first adopted an “initial map,” then the Board has fully complied. Although the concept of “initial map” is not defined,⁷⁸⁷ at most this term would encompass any proposed plans prior to the collection of extensive public comment. In this case, the relevant plans governed by the *Hickel* process would be Board v.3 and v.4. The Board adopted those proposed plans, thereby replacing Board v.1 and v.2, on September 20.⁷⁸⁸ Thus, under an extremely lenient interpretation of the *Hickel* process, the Board was free to consider VRA implications past that date,⁷⁸⁹ although any changes that otherwise violate Article VI, Section 6 criteria must be supported by findings that such changes are required by the VRA.

The Board’s understanding on the *Hickel* process also evolved over time. On August 24, the Board was informed that *Hickel* required the Board to adopt a final plan before any VRA analysis could occur.⁷⁹⁰ But by early September, the Board was requesting its VRA consultants to analyze the proposed plans “as soon as practicable.”⁷⁹¹ Member Bankhe’s statements throughout the redistricting process evidence a strong preoccupation with both VRA requirements and the percentage of Alaska Natives in rural

⁷⁸⁴ These were the August 23-24 and September 7-9 meetings. JRDB-20210823_1000_0 at 05:40:00 (Aug. 23, 2021); JRDB-20210824-0900_0 at 04:50:00 (Aug. 24, 2021); JRDB-20210907-0900_0 at 03:10:00 (Sept. 7, 2021); JRDB-20210908-0900_0 at 00:40:00 (Sept. 8, 2021); JRDB-20210909-0900_0 at 04:30:00 (Sept. 9, 2021)).

⁷⁸⁵ 570 U.S. 529, 557 (2013) (striking down the VRA’s preclearance coverage formula).

⁷⁸⁶ The Department of Justice even confirmed to the Board that it was no longer accepting preclearance review requests from previously covered states such as Alaska. ARB000093-94.

⁷⁸⁷ 2011 *Appeal III*, 294 P.3d at 1038; *accord* 2011 *Appeal I*, 274 P.3d at 468 n.15 (“initially designed plan”); *Hickel v. Se. Conf.*, 846 P.2d 38, 52 n.22 (Alaska 1992), *as modified on reh’g* (Mar. 12, 1993) (“first design”).

⁷⁸⁸ ARB000186-90.

⁷⁸⁹ The Board’s Voting Rights Act consultants presented their analysis on the six adopted plans to the Board on November 2. ARB000196.

⁷⁹⁰ Board Ex. 1021 Tr. 336:14-339:21 (Aug. 24, 2021).

⁷⁹¹ ARB009932 Tr. 108:9-12 (Sept. 9, 2021).

areas.⁷⁹² She was also in charge of drawing the so-called VRA districts.⁷⁹³ The transcripts and videos of public Board meetings make it abundantly clear that Board Members were actively considering VRA-related issues since the beginning of the process. And the fact that all four of the Board's proposed plans contained identical versions of Districts 37, 38, 39, and 40 also creates a strong inference that the Board never truly considered available alternatives. Accordingly, this court cannot definitively state that the Board scrupulously adhered to the *Hickel* process.

Yet this court finds neither extreme convincing. No Alaska Supreme Court decision identifies a precise cutoff date after which the Board is free to consider VRA compliance in its decisions. When remanding final plans for *Hickel* process violations, the Court has provided only two vague guideposts: "initial map" and "primary consideration." Viewing the record as a whole, this court is confident that the minimum requirements of *Hickel* are satisfied. Although the Board had knowledge of the VRA and considered some data potentially relevant to the VRA, there is no indication that its initial maps, *i.e.*, Board v.1-4, were crafted with the VRA as the "primary consideration." The Board properly remained focused on the constitutional criteria. There is always some overlap between race and socio-economic integration, so that by itself is not enough to create an inference of improper purpose. And it should come as no surprise that the populations of rural Alaska villages are primarily comprised of Alaska Natives.

Although the Board consulted with its VRA experts on November 2 before adopting the final house districts, this was after collecting extensive public comment on the Board's proposed plans.⁷⁹⁴ Even though the VRA analysis revealed that no alterations were required for compliance, the Board still adjusted the borders of Districts 37, 38, and 39 in response to public testimony from Calista's arguments on socio-economic integration. Accordingly, the VRA districts were never completely "locked in" until November 5. Board actions to move certain communities around to help with "VRA considerations" when not

⁷⁹² See, e.g., Board Ex. 1021 Tr. 204:11-15, 287:20-23, 331:7-10, 333:20-24 (Aug. 24, 2021); ARB009923-32 Tr. 99:14-108:12 (Sept. 9, 2021).

⁷⁹³ Bahnke Aff. 3.

⁷⁹⁴ See ARB001015-24 (roadshow summary).

actually required by the VRA,⁷⁹⁵ as well as advice from counsel suggesting the Board avoid “drastic changes from . . . [the] six board-adopted plans,” particularly in the districts “labeled 37 through 40 and potentially districts in Anchorage,”⁷⁹⁶ may have unnecessarily limited the Board’s options. But because those discussions occurred during the final process and only a few days before the Board finalized its house districts, this court is convinced that VRA compliance was not a “primary consideration” in the final house district map either.

This Court believes that some flexibility near the end of the 90-day timeframe will inevitably be necessary. It is impractical to require the Board to remain blind as to VRA implications until the last second. For instance, if the VRA analysis did indicate that drastic changes were required for compliance with only a few days remaining, inadequately considered last-second revisions with potentially wide-ranging ripple effects would be inevitable. This would defeat the *Hickel* process’s whole purpose of “diminish[ing] the potential for partisan gerrymandering and promot[ing] trust in government.”⁷⁹⁷ This is especially true if the Board must leave sufficient time for public hearings on senate pairings. As a result, the *Hickel* process, as delineated by the Alaska Supreme Court, does not explicitly forbid the Board from taking VRA requirements into account during the final stretch of the redistricting process. This court declines to draw an arbitrary line where none currently exists. It is enough that the Board made a good-faith effort to comply with *Hickel* and postponed receipt of the VRA analysis until the roadshow’s conclusion.

Returning now to the August 24 mapping session, it appears that the primary purpose of that meeting was to learn the basics of the redistricting process and how to use the districting software.⁷⁹⁸ The video also confirms key differences from the final VRA districts,⁷⁹⁹ and any similarities appear to be the result of relying on the existing districts

⁷⁹⁵ ARB009099 Tr. 90:16-91:13 (Nov. 4, 2021).

⁷⁹⁶ ARB009078 Tr. 7:14-8:1 (Nov. 4, 2021).

⁷⁹⁷ 2011 *Appeal I*, 274 P.3d at 468.

⁷⁹⁸ ARB000153-58, 496-536. The Board elsewhere asserts that it began drawing maps on August 24 and that individual Board Members used the software to draw maps between August 24 and September 7. Board PFFCL 55-56.

⁷⁹⁹ Compare JRDB-20210824-0900_0 at 7:08:00, with ARB000012. In particular, there is no District 37 mapped at this point, and future Districts 38 and 39 both stretch into the interior.

as a base.⁸⁰⁰ Although Executive Director Torkelson did inform the Board of the VRA requirements for the last redistricting cycle, this occurred near the end of the meeting, after mapping had concluded, and he pointed out that the number would be different for this cycle.⁸⁰¹ This discussion concluded with a reiteration that the *Hickel* process required the Board to complete “a final product before we make any consideration for the VRA.”⁸⁰² Then on September 8, the Board rejected an invitation from the Native American Rights Fund to explicitly consider racial data when drawing maps, and the Board decided to disable the display of all racial data in its districting software.⁸⁰³

Thus, although Board Members initially may not have understood exactly what the *Hickel* process requires, the Board made a good-faith attempt and took steps to further ensure compliance. This court therefore finds that the Board sufficiently followed the *Hickel* process and declines to grant relief on the basis of any *de minimis* deviations therefrom.

XI. PROCEDURAL CHALLENGES – Due Process and Article VI, Section 10

The parties collectively raise a number of procedural challenges. They allege violations of procedural and substantive due process rights under Article I, section 7, and also the separate procedural protections outlined in Article VI, section 10 of the Alaska Constitution. The parties also raise arguments under the Open Meetings Act which are intertwined with the Due Process arguments.

A. Applicable Legal Standard

The parties raise a number of claims under the Due Process Clause and the “public hearings” requirement in Article VI, Section 10. The concept of procedural due process requires “notice and an opportunity to be heard.”⁸⁰⁴ Substantive due process, on the other hand, “guard[s] against unfair, irrational, or arbitrary state conduct.”⁸⁰⁵ In the context of

⁸⁰⁰ Board Ex. 1021 Tr. 194:21-23 (Aug. 24, 2021).

⁸⁰¹ Board Ex. 1021 Tr. 337:16-338:5 (Aug. 24, 2021); JRDB-20210824-0900_0 at 7:07:50-08:35.

⁸⁰² Board Ex. 1021 Tr. 336:14-15 (Aug. 24, 2021).

⁸⁰³ ARB010422-24 Tr. 4:20-13:9 (Sept. 8, 2021).south

⁸⁰⁴ *Haggblom v. City of Dillingham*, 191 P.3d 991, 995 (Alaska 2008).

⁸⁰⁵ *Doe v. Dep’t of Pub. Safety*, 444 P.3d 116, 125 (Alaska 2019).

redistricting process, Article VI, Section 10 mandates “public hearings . . . on all plans proposed by the board.” Courts then review redistricting plans to determine whether they are “reasonable and not arbitrary.”⁸⁰⁶ This standard of review is similar to that applied to agency decisions, which “consists primarily of ensuring that the agency has taken a hard look at the salient problems and has genuinely engaged in reasoned decision making.”⁸⁰⁷

Although the parties’ due process arguments are varied,⁸⁰⁸ this court cannot help but notice obvious similarities between these standards. For instance, because the Board must already hold “public hearings,” complying with Section 10 also would appear to satisfy procedural due process. And if the court finds that the final plan is “reasonable,” then substantive due process is satisfied as well. But because the standard of review equally applies to the Section 10 mandate, a final plan’s reasonableness is also dependent upon the sufficiency of public hearings. This court therefore adopts a blended approach to the questions the parties raise here.

As Judge Rindner previously pointed out: “The Alaska Supreme Court has never struck down an otherwise constitutional legislative district on the grounds that such a district is ‘unreasonable.’ Nor has the court discussed the legal standards by which the concept of ‘unreasonableness’ should be measured.”⁸⁰⁹ This appears to be an issue of first impression. But given the importance of these procedural issues to the parties’ challenges, this court must endeavor to articulate legal standards where none currently exist. Thus, to determine what it means for an otherwise constitutional district to be “unreasonable,” this court begins by “adopt[ing] the rule of law that is most persuasive in light of precedent, reason, and policy.”⁸¹⁰ Both the proceedings of the Alaska

⁸⁰⁶ *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) (quoting *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1357 (Alaska 1987)).

⁸⁰⁷ *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 (Alaska 2002) (quoting *Interior Alaska Airboat Ass’n v. State, Bd. of Game*, 18 P.3d 686, 690 (Alaska 2001)).

⁸⁰⁸ To the extent that parties raise due process challenges cognizable under the Open Meetings Act, those claims are addressed in a separate section..

⁸⁰⁹ *2001 Cases I*, No. 3AN-01-08914CI at 25-26.

⁸¹⁰ *Guin v. Ha*, 591 P.2d 1281, 1284 (Alaska 1979).

Constitutional Convention and a constitutional amendment's legislative history provide guidance on questions of constitutional interpretation.⁸¹¹

B. This Court looks to the debates from the Alaska Constitutional Convention to ascertain the goals of redistricting.

Addressing the appropriate method of drawing districts, the framers believed that the redistricting criteria of compactness, contiguity, and socio-economic integration were necessary to prevent gerrymandering.⁸¹² The purpose of utilizing watershed boundaries was to keep communities intact, whereas roads cutting through communities should not serve as boundaries.⁸¹³ Addressing the hypothetical question of splitting an existing district to create two new districts, Delegate Hellenthal reasoned that:

it would be impossible to arbitrarily cut a line down through any election district, because it would violate the very clear principle that the new election districts must each be compact. It would violate compactness; secondly, it would violate the principle that they should be socioeconomic areas. It would be only the most remote sort of interplanetary coincidence that would permit an exact line to be drawn down through the heart to coincide with socioeconomic boundaries. It just doesn't happen.⁸¹⁴

Instead, Delegate Hellenthal clarified that “no priority is assigned to any one factor” and the redistricting board must weigh each of the criteria equally; thus, “it was not the intent to assign priorities to the methods, but to balance.”⁸¹⁵

The framers also considered the purposes of redistricting and how much deference courts should ascribe to the redistricting board's decisions. Delegate Hellenthal described redistricting as “a difficult problem” where those drawing the lines must seek to rise above any “selfish desires”:

You have on the one hand the people of the greater whole; on the other hand you have the people—your neighbors, your friends who always urge

⁸¹¹ See *Forrer v. State*, 471 P.3d 569, 583 (Alaska 2020), *reh'g denied* (Feb. 5, 2021).

⁸¹² Proceedings of the Alaska Constitutional Convention (PACC) 1846 (Jan. 11, 1956) (statement of Del. Hellenthal). Delegate John S. Hellenthal served as Chairman of the Committee on Suffrage, Elections, and Apportionment.

⁸¹³ PACC 1836 (Jan. 11, 1956) (statement of Del. Hellenthal) (“[G]enerally a traveled route such as a steamship route was not a boundary, but it was a route piercing a valley, like a highway more.”).

⁸¹⁴ PACC 1862 (Jan. 11, 1956) (statement of Del. Hellenthal).

⁸¹⁵ PACC 1890 (Jan. 12, 1956) (statement of Del. Hellenthal).

you to help them to the greatest extent possible. And the problem generally is, “What can I do to help the greater good of the State?” And someone is going to be hurt. . . . I don’t think . . . that you could please all of the occupants, but you just have to try.”⁸¹⁶

Because “a conflict of ideas” would be inevitable, the framers reasoned that the proper solution should be “to represent the people” and determine “which method is the fairest concerned to those people involved.”⁸¹⁷ In light of this focus, the constitutional criteria existed to ensure that “the governor and the board will not run away and will be acting within the limits—within clear limits—and are not given wide discretion.”⁸¹⁸ In addition to the constitutional limits imposed on district boundaries, the framers also believed that “the check of public opinion, and the check of recall and re-election” were necessary components.⁸¹⁹

Incorporating these pieces, in this court’s view the Board is required to seek a balance among constitutional criteria rather than assigning any one factor predominate weight. The Board must resolve redistricting conflicts by determining what is the “fairest” resolution for the people. The Board is “not given wide discretion” and its decisions must be informed by “public opinion.” Rather than drawing districts based on individual prerogatives, the Board must make a good-faith effort to harmonize both “the greater good of the State” and the desires of each community “to the greatest extent possible.”

C. Legislative history from the 1998 amendments likewise informs this Court’s view of the Board’s intended role and the purpose of public hearings.

Legislative history pertaining to the composition of the Board confirms that the legislature did not intend for Members to be appointed for their substantive knowledge. In proposing House Joint Resolution (“HJR”) 44,⁸²⁰ one of the legislature’s primary concerns

⁸¹⁶ PACC 1836 (Jan. 11, 1956) (statement of Del. Hellenthal).

⁸¹⁷ PACC 1890 (Jan. 12, 1956) (statement of Del. Gray). Delegate Douglas Gray served as Secretary for the Committee on Suffrage, Elections, and Apportionment.

⁸¹⁸ PACC 1839 (Jan. 11, 1956) (statement of Del. Hellenthal).

⁸¹⁹ PACC 1848 (Jan. 11, 1956) (statement of Del. Hellenthal); see also PACC 1863-64 (Jan. 11, 1956) (statement of Del. Hellenthal) (noting that “the governor does have discretion” but with “mandamus as a check; public opinion as a check; recall, and so on”).

⁸²⁰ See House Joint Resolution (H.J.R.) 44, 20th Leg., 2d Sess. (1998), <http://www.akleg.gov/PDF/20/Bills/HJR044A.PDF>.

was removing partisan politics from the redistricting process.⁸²¹ Although the precise text changed many times, the legislature eventually settled on language requiring Board Members to be appointed “without regard to political affiliation.”⁸²² Other minor amendments added a one-year state-residency requirement.⁸²³ And the condition “that at least one person should be appointed from each of the judicial districts” was intended simply “to guarantee geographical representation.”⁸²⁴

The legislative history is likewise relatively sparse on the intended purpose of “public hearings,”⁸²⁵ but the historical background provides important context. The other main impetus behind HJR 44 was that the Alaska Supreme Court ordered the superior court to draft the 1993 interim plan in *Hickel v. Southeast Conference*,⁸²⁶ and the legislature believed this was not “an appropriate function for the court system.”⁸²⁷ At the same time, the *Hickel* Court affirmed that the Open Meetings Act applied to the Board but otherwise “decline[d] to determine whether an independent constitutional basis exists for ensuring public access to the Board’s meetings.”⁸²⁸ Because HJR 44 was in all other respects a direct response to *Hickel*, what the legislature had in mind by “public hearings” is thus informed by the procedures employed in *Hickel*.

The Board in *Hickel* began its redistricting process by adopting policies to “[c]onsider public testimony, which will be incorporated into the record.”⁸²⁹ The Board then “held a number of public hearings and reviewed alternative redistricting plans submitted by various interest groups.”⁸³⁰ When the Court remanded to the superior court to

⁸²¹ Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-15 Side B No. 0016 (Feb. 11, 1998) (statement of Rep. Brian Porter, Joint-Sponsor).

⁸²² See Alaska Const. art. VI, § 8(a); Minutes, S. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-45 Side A No. 0182 (Apr. 29, 1998) (statement of Rep. Brian Porter, Joint-Sponsor).

⁸²³ See Alaska Const. art. VI, § 8(a); Minutes, H. Fin. Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape HFC 98-50 Side 1 (Mar. 3, 1998) (statement of Rep. Gene Therriault, Co-Chair, H. Fin. Comm.).

⁸²⁴ Minutes, S. Fin. Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape HFC 98-49 Side 2 (Mar. 3, 1998) (statement of Rep. Porter, Joint-Sponsor); see also Alaska Const. art. VI, § 8(b).

⁸²⁵ Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-11 Side A No. 0491 (Feb. 6, 1998) (statement of Jim Sourant, Legislative Assistant to Rep. Brian Porter) (explaining only that once a plan is proposed, “over the next 60 days . . . there are public hearings around the state”).

⁸²⁶ 846 P.2d 38, 44 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

⁸²⁷ Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-11 Side A No. 1973 (Feb. 6, 1998) (statement of Rep. Brian Porter, Joint-Sponsor).

⁸²⁸ *Hickel*, 846 P.2d at 57.

⁸²⁹ *Id.* at 42.

⁸³⁰ *Id.* at 43.

formulate an interim plan, the superior court appointed three masters, and in light of time constraints, permitted only two days for the public to provide comment on the masters' recommended plan.⁸³¹ Despite the time frame, the superior court observed:

The public—as individuals, organizations, public bodies and public officials—produced an outpouring of comment on the masters' proposed plan. It was a gratifying response to the court's efforts to obtain public input and it dramatically demonstrates the importance of producing a tentative plan, with an invitation for specific comments about how that tentative proposal would work. The masters encouraged just this sort of participation and the court commends this procedure to future boards.⁸³²

The superior court found the received comments “thoughtful and valuable,” and in many instances adjusted the interim plan to accommodate “the socio-economic ties cited unanimously in this public outpouring.”⁸³³ Although the superior court could not accommodate all public comments, it offered explanations detailing the constitutional reasons why doing so was not possible.⁸³⁴ The superior court also contrasted this public process with what had transpired before the Board, particularly in Fairbanks:

[T]his court is unwilling to give any deference to the political process that led to the original reapportionment board decision relating to Fairbanks. That process was the most suspect of all the Board's efforts. The chair of the reapportionment board sent hand drawn scenarios to the executive director and these drawings became the basis for the eventual alternatives. Neither these scenarios nor the correspondence were part of the public record nor was it made known that the communication was occurring. There was little discussion of the Fairbanks alternatives in hearing transcripts. The chair has now announced his candidacy for the legislature from one of those Board-created Fairbanks districts with no incumbent.⁸³⁵

The Alaska Supreme Court in *Hickel* likewise afforded public testimony great weight, declaring a violation of the socio-economic integration criteria where public comment was near unanimous in objecting to the split of Saxman from Ketchikan.⁸³⁶

⁸³¹ *Id.* at 64.

⁸³² *Id.* at 77.

⁸³³ *Id.* (including Cordova and Eyak with the Prince William Sound district).

⁸³⁴ *Id.* at 77-78.

⁸³⁵ *Id.* at 72.

⁸³⁶ *Id.* at 51 n.21.

In light of this legislative history, this court concludes that the 1998 amendments were not intended to grant the Board more discretion than it previously enjoyed. Because appointees are only limited by a one-year residency requirement, the legislature did not intend for Board members appointed from each region to be experts in their respective regions. The legislature's understanding of "public hearings" was also informed by the procedures employed by both the Board and the superior court in formulating redistricting plans. And the legislature likely intended to adopt the judiciary's view that public testimony favoring one map over another be given greater weight in the redistricting process.

D. Federal case law applying the Administrative Procedure Act to formal agency rulemaking is instructive on the question of what it means for an agency to take a "hard look" when public hearings are required.

The parties invite this court to consider federal case law to evaluate whether the Board engaged in "reasoned decision-making."⁸³⁷ In *Groh v. Egan*, the Alaska Supreme Court likened review of a redistricting plan to that of an agency regulation, noting that such review is limited to "the constitutionality of the action taken" and "to determine whether the regulation is reasonable and not arbitrary."⁸³⁸ The Court continued to apply the administrative agency review standard after the 1998 amendments, remanding the 2001 plan for the Board to "take a hard look at alternatives" it ignored.⁸³⁹ This standard "consists primarily of ensuring that the agency has taken a hard look at the salient problems and has genuinely engaged in reasoned decision making" to determine reasonableness.⁸⁴⁰ Alaska's "hard look" standard is traceable back to federal case law.⁸⁴¹ Thus, federal case law applying the "hard look" standard of review to agency actions

⁸³⁷ Skagway PFFCL 17-19.

⁸³⁸ 526 P.2d 863, 866 (Alaska 1974).

⁸³⁹ 2001 Appeal I, 44 P.3d 141, 145 (Alaska 2002).

⁸⁴⁰ *Id.* at 143 n.5 (quoting *Interior Alaska Airboat Ass'n v. State, Bd. of Game*, 18 P.3d 686, 690 (Alaska 2001)).

⁸⁴¹ See *Se. Alaska Conservation Council, Inc. v. State*, 665 P.2d 544, 549 (Alaska 1983) (quoting Harold Leventhal, *Environmental Decision Making and the Role of the Courts*, 122 U. PA. L. REV. 509, 511 (1974) (discussing *Greater Bos. Television Corp. v. F.C.C.*, 444 F.2d 841, 858 (D.C. Cir. 1970))).

requiring public comment, such as notice-and-comment rulemaking under the federal Administrative Procedure Act (“APA”),⁸⁴² may provide some guidance on this question.⁸⁴³

The U.S. Supreme Court has explained that in the context of “notice-and-comment rulemaking,” the “agency must consider and respond to significant comments received during the period for public comment.”⁸⁴⁴ In a variety of contexts, the D.C. Circuit has clarified that an agency must “respond to ‘significant points’ and consider ‘all relevant factors’ raised by the public comments” to satisfy the “hard look” standard.⁸⁴⁵

Accordingly, an agency must respond to comments “that can be thought to challenge a fundamental premise” underlying the proposed agency decision. An agency need not “discuss every item of fact or opinion included in the submissions made to it.” An agency’s response to public comments, however, must be sufficient to enable the courts “to see what major issues of policy were ventilated . . . and why the agency reacted to them as it did.” Even when an agency “has significant discretion in deciding how much weight to accord each statutory factor,” that does not mean it is “free to ignore any individual factor entirely.”⁸⁴⁶

Although an agency need not respond to all public comments, at the very least it is “required to respond to significant comments that cast doubt on the reasonableness of the rule the agency adopts.”⁸⁴⁷ Examining this standard, commentators have argued that an agency may act unreasonably “by virtually ignoring the mass of public comments that

⁸⁴² See 5 U.S.C. § 553(c) (“After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose.”).

⁸⁴³ The Alaska Supreme Court has likewise looked to federal decisions applying the APA in the context of determining “the sufficiency of notice and comment in the analogous context of promulgation of agency regulations.” *Trustees for Alaska v. State, Dep’t of Nat. Res.*, 795 P.2d 805, 808 (Alaska 1990) (discussing *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642 (1st Cir. 1979)).

⁸⁴⁴ *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 96, 135 S. Ct. 1199, 1203, 191 L. Ed. 2d 186 (2015) (citing *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971)); cf. *Moore v. State*, 553 P.2d 8, 35 n.19 (Alaska 1976) (adopting *Overton Park*).

⁸⁴⁵ *Carlson v. Postal Regul. Comm’n*, 938 F.3d 337, 344 (D.C. Cir. 2019) (quoting *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 35-36 (D.C. Cir. 1977)).

⁸⁴⁶ *Id.* (citations omitted) (first quoting *MCI WorldCom, Inc. v. FCC*, 209 F.3d 760, 765 (D.C. Cir. 2000); then quoting *Del. Dep’t of Nat. Res. & Envtl. Control v. EPA*, 785 F.3d 1, 17 (D.C. Cir. 2015); and then quoting *Tex. Oil & Gas Ass’n v. EPA*, 161 F.3d 923, 934 (5th Cir. 1998)).

⁸⁴⁷ *Baltimore Gas & Elec. Co. v. United States*, 817 F.2d 108, 116 (D.C. Cir. 1987).

it received,” particularly when weighed against “the number of public commenters, the seeming universality of their opinions, and the [agency’s] statutory relationship with the public interest.”⁸⁴⁸

In this respect, federal case law applying the “hard look” standard of review to notice-and-comment agency rulemaking may not go far enough. The policy rationale behind requiring an agency to respond to public comment is to ensure that the final rule is “based on a consideration of the relevant factors.”⁸⁴⁹ Agencies are typically afforded “an extreme degree of deference” when they are “evaluating scientific data within [their] technical expertise.”⁸⁵⁰ But redistricting is not a science and Board appointees are not experts.⁸⁵¹ The Board consists of five (supposedly non-partisan) appointees from different judicial districts with only a one-year residency requirement. Where the whole purpose of the Board is to elicit and incorporate public comment into the final plan, the policy rationale for limiting the types of comments to which the board must respond effectively crumbles.

E. Precedent, reason, and policy considerations for interpreting “reasonableness” in light of the Article VI, Section 10 “public hearings” requirement and other changes from the 1998 amendments.

Alaska Supreme Court precedent supports adopting a broad interpretation of Article VI to effectuate the peoples’ will as expressed by the 1998 amendments. In *In re 2001 Redistricting Cases*, the Court confronted population deviations of 9.5% between districts in Anchorage.⁸⁵² The Court began by noting that the federal Equal Protection Clause already requires the Board to “make an ‘honest and good faith effort to construct

⁸⁴⁸ Note, Mary M. Underwood, *On Media Consolidation, the Public Interest, and Notice and Agency Consideration of Comments*, 60 ADMIN. L. REV. 185, 204-05 (2008).

⁸⁴⁹ *Baltimore*, 817 F.2d at 116 (quoting *Thompson v. Clark*, 741 F.2d 401, 409 (D.C.Cir.1984)).

⁸⁵⁰ *Huls Am. Inc. v. Browner*, 83 F.3d 445, 452 (D.C. Cir. 1996) (quoting *Int’l Fabricare Inst. v. USEPA*, 972 F.2d 384, 389 (D.C.Cir.1992)).

⁸⁵¹ In prior cases the Alaska Supreme Court reasoned that “determining population is an inexact science, with agency expertise implicated at each step of the determination process,” and thus deferred to related agency decisions. *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175 (Alaska 1986) (citing *Egan v. Hammond*, 502 P.2d 856 (Alaska 1972)). But the Board no longer plays any role in determining the state’s population. Alaska Const. art. VI, § 3 (“Reapportionment shall be based upon the population within each house and senate district as reported by the official decennial census of the United States.”).

⁸⁵² *2001 Appeal I*, 44 P.3d 141, 145 (Alaska 2002)

districts . . . as nearly of equal population as is practicable.”⁸⁵³ The Court then addressed how the 1998 amendments altered the standard for evaluating equal population:

Before article VI, section 6, was amended in 1998, maximum deviations below ten percent were insufficient, without more, to make out a prima facie case that a plan or part thereof was unconstitutional. Section 6 was amended in 1998 and the present constitutional standard is equality of population “as near as practicable.” Newly available technological advances will often make it practicable to achieve deviations substantially below the ten percent federal threshold, particularly in urban areas. Accordingly, article VI, section 6 will in many cases be stricter than the federal threshold. Here the board believed that deviations within ten percent in Anchorage automatically satisfied constitutional requirements; plaintiffs established that the board failed to make any attempt to further minimize the Anchorage deviations.

Because, as the board's counsel conceded at oral argument, the board made no effort to reduce deviations in Anchorage below ten percent, the burden shifted to the board to demonstrate that further minimizing the deviations would have been impracticable in light of competing requirements imposed under either federal or state law. We conclude that the board failed to offer an acceptable justification for the Anchorage deviations.

. . . Accordingly, the Anchorage deviations are unconstitutional, and require the board on remand to make a good faith effort to further reduce the deviations.⁸⁵⁴

In other words, the Court interpreted the added language in Section 6 as imposing a “good faith effort” standard beyond what previously existed, even though the language itself did not clearly mandate such a result.⁸⁵⁵ Rather, the Court’s holding implies that the act of amending the constitution itself holds significance. The Court’s reliance on “technological advances” when determining how much leeway to grant the Board is also relevant.

This interpretative approach is equally applicable here. When the legislature added the “public hearings” requirement in Section 10, and the people subsequently ratified that language, it cannot be said that the intent was simply to maintain the status quo. The

⁸⁵³ *Id.* at 145 n.11 (quoting *Reynolds v. Sims*, 377 U.S. 533, 577 (1964)).

⁸⁵⁴ *Id.* at 145-46.

⁸⁵⁵ See *id.* at 151 (Carpenti, J., dissenting) (contrasting “at least equal” with “as near as practicable”).

amendment itself holds import. Technological advances have also made it much easier for the Board to elicit public comment directly from affected communities, even without being physically present. If the Board must “make a good faith effort” regarding compliance with Section 6 criteria beyond what pre-1998 case law found acceptable, then that extends equally to compliance with Section 10.

Reason likewise appears to favor such an interpretation. Judge Rindner previously opined that “the choice among alternative plans that are otherwise constitutional is for the Board.”⁸⁵⁶ But no court has attempted to factor in the relevance of the 1998 amendments to the standard of review. In this court’s view, those amendments effectively altered the applicable standard of review in two respects. On one hand, the Board is no longer a purely advisory one answerable to the governor; appointment power is now vested in each branch of government,⁸⁵⁷ and the governor cannot alter any aspects of the final plan after adoption.⁸⁵⁸ As a result, many of the previous “checks” on redistricting the framers contemplated are no longer in force,⁸⁵⁹ aside from bringing a judicial challenge.⁸⁶⁰ On the other hand, by mandating “public hearings” for all proposed plans,⁸⁶¹ the 1998 amendments greatly elevated the public’s role in the redistricting process. The legislature adopted HJR 44 to make redistricting a less partisan process,⁸⁶² but at no point did the legislature contemplate disrupting the framers’ delicate checks and balances.⁸⁶³ Quite to the contrary, Section 10 not only codifies but expands the framers’ “check of public

⁸⁵⁶ *2001 Cases I*, No. 3AN-01-08914CI, at 26 (Alaska Super., Feb. 01, 2002); *accord In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) (“We may not substitute our judgment as to the sagacity of a redistricting plan for that of the Board, as the wisdom of the plan is not a subject for review.”).

⁸⁵⁷ Alaska Const. art. VI, § 8 (providing the governor with two appointments, the presiding officers of the house and senate with one each, and the final with the Chief Justice).

⁸⁵⁸ Alaska Const. art. VI, § 10.

⁸⁵⁹ See PACC 1848 (Jan. 11, 1956) (statement of Del. Hellenthal) (noting checks such as “public opinion” and the threat of “recall”).

⁸⁶⁰ Alaska Const. art. VI, § 11.

⁸⁶¹ Alaska Const. art. VI, § 10.

⁸⁶² See Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-15 Side B No. 0475 (Feb. 11, 1998) (statement of Rep. Green, Vice Chairman, H. Judiciary Comm.) (summarizing the committee’s intent to make redistricting “more neutral and fair”).

⁸⁶³ See *id.* at No. 0016 (statement of Rep. Porter, Joint-Sponsor) (acknowledging that “the weight of this constitutional amendment is substantial, because the change from one system to another affects many sections of the constitution,” while reiterating his belief that HJR 44 would not upend the structure beyond “the shift from the governor appointing the board to a bipartisan representation of the legislature”).

opinion” in the form of mandatory “public hearings.” In other words, the Board is no longer the ultimate arbiter of reasonableness; that power is shared with the people.

Because the Board is no longer directly answerable to any elected official, there is nobody for the people to hold accountable for a skewed redistricting process. An apt comparison is the municipal rezoning process: both involve the drawing of maps that may adversely affect important individual rights, and both are reviewed under the deferential “arbitrary and capricious” standard.⁸⁶⁴ As a result of this deference, one oft-stated truism about unpopular rezoning decisions is that “the remedy is the ballot box, not the courts.”⁸⁶⁵ To rephrase, if citizens disagree with their elected representatives’ voting patterns, they can vote them out. That remedy is unavailable here.⁸⁶⁶ But because the 1998 amendments had to be ratified by a majority of the people,⁸⁶⁷ it is incomprehensible that the people—without clear notice—agreed to waive their constitutional check on the redistricting process. Accordingly, the public must have other means of checking redistricting abuses.

And because the Board’s constitutional role is to hold public hearings, and thus elicit public testimony, only the public can truly determine whether that process was arbitrary and capricious. To be sure, the courts have always had a role, and must always determine constitutional compliance. But the courts can also enforce the public’s determination. The legislature appears to have implicitly understood this balance.⁸⁶⁸ And yet the Board asserts that it satisfied Section 10 by adopting two proposed “draft” maps within the 30-day deadline—Board v.1 and v.2—and then by holding two public hearings

⁸⁶⁴ See *Griswold v. City of Homer*, 925 P.2d 1015, 1019-20 (Alaska 1996); 1 RATHKOPF’S THE LAW OF ZONING AND PLANNING § 3:15, Westlaw (database updated Nov. 2021).

⁸⁶⁵ *Robinson v. City of Bloomfield Hills*, 86 N.W.2d 166, 169 (Mich. 1957); see also *Griswold*, 925 P.2d at 1019 (“[I]t is the role of elected representatives rather than the courts to decide whether a particular statute or ordinance is a wise one.”).

⁸⁶⁶ Only the governor is directly elected by the people—the presiding officers of the house and senate are chosen by the respective legislative body, and the chief justice is appointed by the governor (presumably not the same governor). In debating HJR 44, the legislature expressed concern that “judges could be put in the position of standing against a recall election if reapportionment does not satisfy everyone.” Minutes, H. Fin. Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape HFC 98-50 Side 1 (Mar. 3, 1998) (statement of Rep. Davies, Member, H. Fin. Comm.).

⁸⁶⁷ See Alaska Const. art. 13, § 1.

⁸⁶⁸ See Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-15 Side B No. 0241 (Feb. 11, 1998) (statement of Rep. Bunde, Vice Chairman, H. Judiciary Comm.) (“[T]he check and balance here is that if [the plan] is skewed, people will be standing in line to file suit, and the court will act.”).

on September 17 and 20, 2021.⁸⁶⁹ The Board conveniently ignores that it “replaced” both Board v.1 and v.2 on September 20.⁸⁷⁰ The Board’s preferred interpretation would thus effectively render the “public hearings” requirement superfluous.⁸⁷¹ If the Board could hold public hearings but with no intent to ever listen to or incorporate public comments in the first place, then what purpose would those public hearings serve?

Finally, the policy goals of Article VI, Section 10 are better served by a rule that requires the Board to make a good-faith attempt to accommodate the will of the people. As noted above, the primary purpose of HJR 44 was “to get partisan politics out of the process.”⁸⁷² This policy is clearly expressed in Section 8, which states that appointments to the Board “shall be made without regard to political affiliation.”⁸⁷³ But the specter of a “partisan gerrymander” always looms in the background where Board Members appointed by the political branches make decisions contrary to the will of the people or fail to offer adequate explanation.⁸⁷⁴ Instead, whether the clear weight of public comment favors one concept over another is an objective standard that can easily be measured.

⁸⁶⁹ Board PFFCL 170. In the Board’s view, apparently, everything beyond that date was gratuitous. But the Board offers no cogent rationale for such a narrow interpretation. Although the Board cites Judge Rindner’s 2002 opinion in support, this comparison lacks critical context. The issue there was whether the Board violated Section 10 by adopting late-filed maps that were never discussed over the course of 21 public hearings, of which one became the basis for the Board’s final plan. *2001 Cases I*, No. 3AN-01-08914CI, at 32-34 (Alaska Super., Feb. 01, 2002). Judge Rindner found no constitutional violation because the final plan “was an evolution of various other plans,” as opposed to “a radical departure from plans that had been the subject of public comment.” *Id.* at 86 n.40. In other words, the Board satisfied its constitutional mandate because it “made a good faith effort to adopt a constitutional plan” and to “encourage[] public participation,” *id.* at 42, despite “technological problems” and other limitations. *Id.* at 38. As Judge Rindner observed, Section 10 does not impose any numerical requirement on public hearings, but whether the Board actually made a good-faith effort is evaluated on a case-by-case basis.

⁸⁷⁰ ARB000190; *see also* Simpson Depo. Tr. 41:17-24 (“I did not know if [Board v.1] was formally replaced or if it was just supplemented with the later version. . . . [I]t was basically obsolete, as far as we were concerned . . .”).

⁸⁷¹ *See Kodiak Island Borough v. Exxon Corp.*, 991 P.2d 757, 761 (Alaska 1999) (noting that courts must presume “that no words or provisions are superfluous” when interpreting a statute).

⁸⁷² Minutes, H. Fin. Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape HFC 98-49 Side 2 (Mar. 3, 1998) (statement of Rep. Porter, Joint-Sponsor).

⁸⁷³ Alaska Const. art. VI, § 8(a). But as this redistricting cycle has shown, it may be impossible to expect the political branches to ever disregard “political affiliation” with their appointments. *See* Binkley Depo. Tr. 24:19-26:4 (former Republican gubernatorial candidate); Marcum Depo. Tr. 179:13-15 (Republican party officer); Simpson Depo. Tr. 209:5-210:12 (lifelong Republican).

⁸⁷⁴ *See, e.g., In re 2001 Redistricting Cases (2001 Appeal II)*, 47 P.3d 1089, 1094 (Alaska 2002) (addressing allegation that final plan favored Democrats over Republicans). Many of the challenges in this redistricting cycle likewise have spawned from the appearance of partisanship.

By requiring the Board to either accommodate the clear weight of public opinion or explain why it cannot, the danger of hidden partisan agendas is removed.

In light of the aforementioned legislative history and debates from the Constitutional Convention, as well as a consideration of precedent, reason, and policy, this court believes that a “good-faith effort” standard ensures constitutional compliance to the greatest extent practicable. In other words, the spirit of Article VI, Section 10, if not the plain text, compels the Board to present the public with a number of equally constitutional redistricting plans and then let the people have a say about which plan they prefer.⁸⁷⁵ While the Board need not respond to every single comment received, the Board must make a good-faith effort to consider and incorporate the clear weight of public comment, unless state or federal law requires otherwise. Board Members are public servants, not regional experts, so beyond the initial map-drawing phase the Board must give some deference to the public’s judgment. If the Board adopts a final plan contrary to the preponderance of public testimony, it must state on the record legitimate reasons for its decision. Due process likewise requires the Board to make a good-faith attempt to comply with the procedures it has adopted for itself, as long as those procedures are not preempted by applicable state or federal law.

F. Regional Applications

1. Skagway: The Board made no good-faith attempt to incorporate or respond to public testimony from Skagway and Juneau but instead allowed one Board Member to draw the boundary lines for Districts 3 and 4 based on a narrow view of compactness.

Skagway raises both due process and Article VI, Section 10 claims.⁸⁷⁶ Skagway argues that “the Board failed to adequately consider the views and preferences it did receive” related to Skagway, and thus the resulting final plan is “arbitrary and irrational.”⁸⁷⁷ Skagway also asserts that “the overwhelming public comment support[ed] continuing to

⁸⁷⁵ Individual Board Members, at least in theory, appear to have been aware of their role. Jan. 27, 2022 Trial Tr. 1032:12-1033:11 (Simpson Cross) (“The purpose of adopting [multiple plans] was to encourage a variety of public comment and to provide a number of options that people could look at and sort of pick and choose their way through what they liked or didn’t like about any of them.”).

⁸⁷⁶ Skagway Trial Br. 15-25.

⁸⁷⁷ Skagway Am. Compl. 4-6.

district Skagway and Haines with downtown Juneau,” and yet the Board drew “an arbitrary line through the middle of the Mendenhall Valley community” due to “the strong personal and unsupported opinion of Board Member Simpson.”⁸⁷⁸

In the Board’s final plan, Member Simpson “took the lead” for drawing districts in Southeast Alaska.⁸⁷⁹ Member Simpson testified that the existing house districts in Juneau are “much-less compact,” and that based on his “experience and knowledge of Southeast Alaska, pairing Skagway with downtown Juneau never made sense.”⁸⁸⁰ Member Simpson stated that he started drawing District 4 at the southern borough boundary for Juneau,⁸⁸¹ then he “drew the northern line by gathering census blocks moving outward from downtown Juneau, stopping when [he] had sufficiently populated the district” while trying “to make the line as straight as possible in light of the population and compactness goals.”⁸⁸² Despite his dislike for the existing districts, which paired Skagway with Downtown Juneau,⁸⁸³ Member Simpson acknowledged that both his version and the 2013 districts are “highly defensible.”⁸⁸⁴ He also recalled public testimony:

The question of splitting the Valley in half wasn’t brought up one way or the other. Most people in the downtown area preferred keeping the existing arrangement. They did not talk about where the Valley would be split.

Some people did weigh in that splitting, like around Fred Meyer or something, made sense to them. I recall some of that. But I don’t think anybody ever split the Valley in half, only because it just didn’t come up in that context.⁸⁸⁵

Member Simpson could recall only one individual from Skagway who testified in favor of being districted with Auke Bay⁸⁸⁶—all others preferred Downtown Juneau.⁸⁸⁷

⁸⁷⁸ Skagway Trial Br. 61.

⁸⁷⁹ Simpson Aff. 2.

⁸⁸⁰ Simpson Aff. 12.

⁸⁸¹ Simpson Depo. 103:2-7.

⁸⁸² Simpson Aff. 8-9.

⁸⁸³ ARB001614.

⁸⁸⁴ Simpson Depo. 109:8-10.

⁸⁸⁵ Simpson Depo. 116:7-18.

⁸⁸⁶ Simpson Depo. 119:17-19.

⁸⁸⁷ Simpson Depo. 117:21-120:12; *see also* Skagway Ex. 2005 Tr. 12:3-30:11 (Oct. 27, 2021).

Member Simpson's testimony before this court also reflects a misunderstanding of the role of the Board and public hearings. He opines that he was entitled to use his own judgment based on his own experience of living in Southeast Alaska.⁸⁸⁸ But Member Simpson acknowledges that any substantive knowledge was not why he was chosen; instead, "they were looking for a Republican from Southeast," which he described as a "short list."⁸⁸⁹ Nor was he appointed for his knowledge of redistricting, as Member Simpson made a few attempts to use the software, but quickly determined it was easiest to let staff draw the maps.⁸⁹⁰ Although the Board's decisions are ultimately reviewed with the deference afforded an administrative agency, Member Simpson's personal views and opinions are entitled to no additional constitutional deference.

When the Board adopted the maps for Districts 3 and 4, districting Skagway with Mendenhall Valley and Auke Bay, it provided no clear basis for ignoring public testimony from Skagway and Juneau on the issue. Member Simpson opined that his District 3 was "more compact and more socioeconomically connected," whereas Member Borromeo's version "doesn't make socioeconomic sense to me, as a resident of those districts."⁸⁹¹ Based on her statements at that time and her later testimony, Member Borromeo appeared to harbor doubts about the reasonableness of Member Simpson's process. And yet, despite awareness of the lack of any good-faith attempt to incorporate public testimony, the Board ultimately deferred to Member Simpson's personal opinions.⁸⁹²

This Court is somewhat troubled by this practice of assigning each member a region and ultimately deferring to those Members' judgment on their assigned regions.⁸⁹³ This regional or individual division of responsibility for drafting maps was even addressed

⁸⁸⁸ Trial Tr. 1848:14-18; 1864:16-19 (Feb. 3, 2022); Simpson Aff. 3, 12.

⁸⁸⁹ Trial Tr. 1725:15-1727:16 (Feb. 3, 2022); Simpson Depo. 210:9-12. The challengers have not raised any claims under the "political affiliation" clause. Alaska Const. art. VI, § 8.

⁸⁹⁰ Trial Tr. 1813:3-12 (Feb. 3, 2022).

⁸⁹¹ ARB009080 Tr. 17:16; ARB009081 Tr. 18:5-7.

⁸⁹² ARB009081-82 Tr. 18:15-22:18; Trial Day 10 Tr. 83:1-9 (11:31:41) (Simpson Cross).

⁸⁹³ It appears that the Board adopted this practice both as a matter of expedience and as a show of respect to the other Board Members. Despite good intentions, this practice resulted in a loss of focus on what should have been the Board's priorities. Although the Board must produce a final plan that satisfies the constitutional requirements, it must also ensure that the process it employs along the way is ultimately reasonable. This includes the manner by which Board Members listen and respond to public testimony.

and discouraged early in the Board's mapping process.⁸⁹⁴ No such mandate exists as a matter of statutory or constitutional law. And as noted above, the legislature never intended for Board members to be experts for their regions. The whole purpose of public hearings is to find out what the people prefer—it should not be a meaningless exercise.

The Board effectively concedes that Member Simpson made no attempt to accommodate the clear weight of public testimony.⁸⁹⁵ Instead, the Board points to just four comments that supported Member Simpson's version of Districts 3 and 4.⁸⁹⁶ The Board also boasts that several of the Members "are life-long Alaskans, and the Board brings over 200 collective years of experience in and throughout Alaska."⁸⁹⁷ Testimony before this court revealed a number of instances where the process worked as intended, and the Board adjusted its proposed maps in response to public testimony.⁸⁹⁸ Where that process was not followed, however, appears to be where individual Board Members had a personal stake in the decision-making process and believed that they knew better than the people.

In light of the whole record, Skagway has shown that the Board ignored the clear weight of public testimony from Skagway and Juneau when it adopted Districts 3 and 4. Neither Member Borrromeo's deference to the personal preferences of Member Simpson, nor Member Simpson's myopic focus on the single criteria of compactness constitute reasonable explanations for ignoring public testimony. The Board had multiple options available that would have satisfied both Skagway's and Juneau's reasonable requests, and Skagway has shown at trial that those requests can still be accommodated without affecting the boundaries of any other districts. More than anything, the Board's closing argument does little to instill confidence. To each of Skagway's points, the Board replied: "So what?"⁸⁹⁹ This is not the response the people should expect to receive from the public entity in charge of redistricting and constitutionally required to hold public hearings. Nor

⁸⁹⁴ ARB000156-58.

⁸⁹⁵ Board PFFCL at 21-26.

⁸⁹⁶ Board PFFCL at 85-86 n. 559. The Board does not state that it relied on these specific comments in adopting Districts 3 and 4, nor does the Board explain how these comments are more persuasive.

⁸⁹⁷ Board PFFCL at 3. But as explained above, that is not the Board's role.

⁸⁹⁸ See, e.g., Day 10 Trial Tr. 120:16-131:17 (13:50:32) (Simpson Redirect) (describing the Board's incorporation of public feedback from Homer).

⁸⁹⁹ Trial Day 12 Tr. 225:1-13 (Feb. 11, 2022 16:05:15:20) (Board closing argument).

is this response indicative of a rational decision-making process. Skagway's unsuccessful trial arguments aside, the Board is nonetheless obligated to make a good-faith attempt to incorporate the public testimony of Alaska citizens. It simply did not. The Board therefore failed to take a hard look at Districts 3 and 4.

2. *Mat-Su/Valdez*

As for Mat-Su/Valdez, as discussed earlier, the Board did take a "hard look" at the issue of where to put Valdez and certainly did not ignore public testimony. The Board essentially began and ended the house districting with Valdez. Instead, the Board was simply unable to find a way to fulfill those requests while still meeting constitutional requirements elsewhere. Although this may have been affected by the order in which it addressed certain regions on the map first, thus not keeping all of its options open, the Board acted reasonably in its ultimately doomed efforts to keep Mat-Su/Valdez separate.

3. *Calista*

Calista did not raise any procedural claims, but this court will proceed to analyze the districts Calista complains of for whether the Board's actions were reasonable. Calista wanted Chevak, Hooper Bay, and Scammon Bay to be districted with Bethel, resulting in the shift of several other Calista villages out of District 37.⁹⁰⁰ Although the Board was hesitant at first, it ultimately attempted to move the Calista villages around in open meeting.⁹⁰¹ The Board found a compromise solution by moving Chevak into District 38, then shifting Platinum and Goodnews Bay into District 37, while leaving Hooper Bay and Scammon Bay in District 39.⁹⁰² The Board explained that moving any more villages created ripple effects in distant regions, thereby endangering constitutional criteria elsewhere.⁹⁰³ The Board thus made a good-faith effort to accommodate Calista's request, even if the request was not based purely on constitutional criteria. But despite the Board's best efforts, it became impossible to district all three villages with Bethel while still meeting

⁹⁰⁰ Guy Aff. 4-5.

⁹⁰¹ ARB007282 Tr. 182:2-4 (Nov. 3, 2021); ARB007792-7798 (Nov. 5, 2021).

⁹⁰² Guy Aff. 6-7.

⁹⁰³ Bahnke Aff. 11-14; Binkley Aff. 16-17; Borromeo Aff. 23-24; Torkelson Aff. 38.

constitutional criteria for other districts. The Board explained as much during the final process and at trial. This court therefore finds that the Board took a hard look at Districts 37, 38, and 39 in light of public testimony from Calista.

4. East Anchorage

Because so much of East Anchorage's Due Process challenge is intertwined with its allegation that the Board violated the Open Meetings Act, much of the discussion will be addressed under that section. For East Anchorage, the Board obviously violated the "hard look" standard by ignoring public comment on the senate pairings. The Board left itself almost no time for comment devoted to senate pairings. Despite that abbreviated time period, the support for keeping Muldoon and Eagle River separate was loud and clear. And yet the Board ignored it to accommodate the wishes of a single Member, even though it was constitutionally possible to keep those communities together. Having failed to take an appropriate "hard look" at the Senate pairings, the Board violated the constitutional rights of East Anchorage Plaintiffs under Article I, § 7 of the Alaska Constitution.

5. Conclusion

This Court finds that the Board's refusal to consider and make a good-faith effort to incorporate public feedback relating to the placement of Skagway and the dividing line in Juneau was arbitrary and capricious, and thus unreasonable. The same holds true for the East Anchorage senate pairings. If the Board could simply ignore the preponderance of public testimony and make decisions based on a single Member's personal views, then Section 10 would be rendered superfluous.

This Court therefore orders a remand of the final plan to the Board with instructions to take a "hard look" at House Districts 3 and 4 and Senate Districts K in light of public testimony. On remand, the Board must either redraw these districts to incorporate the reasonable requests supported by the clear weight of public testimony, or the Board must offer an explanation as to why it believes the constitution, federal law, or other traditional redistricting criteria make it impossible to achieve those results.

G. Constitutional Deadlines In Article VI, Section 10

1. *Proposed Plan 30-Day Deadline*

Some Plaintiffs argue that the Board violated Article VI, Section 10 by not strictly adhering to the constitutional deadlines. In relevant part, Section 10 states:

Within thirty days after the official reporting of the decennial census of the United States . . . the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings . . . on all plans proposed by the board. No later than ninety days after . . . the official reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. . . .⁹⁰⁴

Judge Rindner's 2002 order construed this provision as "requir[ing] that public hearings be held only on the plan or plans adopted by the Board within thirty days of the reporting of the census," as opposed to the final plan.⁹⁰⁵ The superior court approved of the Board's process for accepting third-party plans, including those submitted after most of the public hearings had concluded,⁹⁰⁶ as long as the Board was not "adopting an entirely new plan that has never been the subject of public hearings and which was a radical departure from plans that had been the subject of public comment."⁹⁰⁷ Although the Alaska Supreme Court summarily affirmed that portion of Judge Rindner's order, the Court's opinion said nothing about Section 10.⁹⁰⁸

The United States Bureau of the Census released the 2020 census data on August 12, 2021.⁹⁰⁹ The Board proposed two plans, Board v.1 and v.2, on September 9.⁹¹⁰ At that time, the Board permitted third parties to submit their own drafts with a submission deadline of September 15.⁹¹¹ The Board heard presentations regarding the third-party plans on September 17.⁹¹² On September 20, the Board evaluated and adopted four

⁹⁰⁴ Alaska Const. art. VI, § 10(a).

⁹⁰⁵ *In re 2001 Redistricting Cases*, No. 3AN-01-08914CI, at *33 (Alaska Super., Feb. 01, 2002).

⁹⁰⁶ *Id.* at 34.

⁹⁰⁷ *Id.* at 85 n.40 (finding no constitutional violation where the final plan "was an evolution of various other plans" that had been subject to public hearings).

⁹⁰⁸ *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 (Alaska 2002).

⁹⁰⁹ ARB000002.

⁹¹⁰ ARB000164-65.

⁹¹¹ ARB000165.

⁹¹² ARB000170-73.

third-party plans to take on its public road show.⁹¹³ The Board also reviewed a number of improvements that it sought to incorporate into its proposed plans in light of the public testimony it had received.⁹¹⁴ The Board then moved to replace Board v.1 and v.2 with Board v.3 and v.4 respectively.⁹¹⁵ Of the six plans the Board took on its public roadshow, Board v.1 and v.2 were not included.⁹¹⁶ The Board met again in public hearings and work sessions starting November 2, until it finalized the house districts on November 5.⁹¹⁷

The Plaintiffs thus contend that the Board violated Article VI, Section 10 by not holding a full 60 days of public comment on the only proposed plans adopted within the 30-day constitutional deadline,⁹¹⁸ i.e., Board v.1 and v.2.⁹¹⁹ But the plain text of Section 10 includes no such command—the Board is simply required to “hold public hearings . . . on all plans proposed by the board.” Nor does legislative history support such an inference. In one of the few exchanges regarding “public hearings,” staff explained that “over the next 60 days after the first 30 days, there are public hearings around the state,” so that “by the end of that 60-day period,” the Board “should agree upon its reapportionment plan and proclamation.”⁹²⁰ In other words, those 60 days are not just for holding public hearings but also for the Board to discuss and reach *agreement* on a final plan.⁹²¹ The Plaintiffs’ interpretation also fails as a matter of logic, as it would require the Board to forego *any* attempts to incorporate public comment until the very last second. This is contrary to arguments elsewhere faulting the Board for *not* incorporating public testimony from their communities.⁹²² And as a result of plans remaining static throughout the public hearing process, any final plan incorporating 60-days’ worth of public testimony all at once would inevitably be a “radical departure” from the original proposed plan. The Board is not constitutionally forbidden from updating its proposed plans with public

⁹¹³ ARB000176-86, 190-92.

⁹¹⁴ ARB000186-90.

⁹¹⁵ ARB000190.

⁹¹⁶ Simpson Depo. Tr. 40:17-43:6; Torkelson Depo. Tr. 109:20-110:13.

⁹¹⁷ ARB000193-209.

⁹¹⁸ Mat-Su PFFCL 126; Skagway PFFCL 46-49; Valdez 48-51.

⁹¹⁹ ARB000164.

⁹²⁰ Minutes, H. Judiciary Comm. Hearing on H.J.R. 44, 20th Leg., 2d Sess., Tape 98-11 Side A No. 0491 (Feb. 6, 1998) (statement of Jim Sourant, Legislative Assistant to Rep. Brian Porter).

⁹²¹ See *id.* at No. 1065 (statement of Rep. James, Member, H. Judiciary Comm.) (paraphrasing the timeline as permitting “60 days to hold hearings and agree on a final plan”).

⁹²² Mat-Su PFFCL 74; Skagway PFFCL 80; Valdez PFFCL 110.

testimony after the first 30 days, as long as the Board does so in good faith and provides adequate reasons.

The Plaintiffs recognize such inconsistencies and pivot to the argument that modifications are acceptable, but the Board cannot “replace plans it adopted within the 30-day period with radically new plans outside the 30-day period.”⁹²³ Thus, in their view, Board v.3 and v.4 are “radically different” from Board v.1 and v.2 and were never subjected to public comment prior to adoption.⁹²⁴ Although this argument is based on the language of Judge Rindner’s order, it overlooks the logic. In the 2001 cases, the superior court faced a scenario where the Board accepted a third-party plan that was filed the day before the conclusion of the Board’s road show.⁹²⁵ Both plans that the parties complain of—Board v.3 and v.4—were adopted at the same time as the third-party plans, and all six of those plans received extensive public comment on the Board’s roadshow. This argument also confuses the constitutional significance of public hearings: The Board must elicit public testimony on plans *after* it adopts them, not before. Whether the Board held any public hearings on Board v.3 and v.4 prior to adopting them is irrelevant, especially where the Board made those revisions to *incorporate* public testimony. Board Members explained in detail what changes they were making to Board v.1 and v.2, including what public testimony or legal advice had led to those conclusions.⁹²⁶ This is not a situation where the Board has switched out its proposed plans at the last minute for something “radically different” in bad faith. That the Board updated its earlier proposed plans in response to public testimony is not a due process violation—it is evidence that the system

⁹²³ Skagway PFFCL 48.

⁹²⁴ Skagway PFFCL 14, 50

⁹²⁵ *In re 2001 Redistricting Cases*, No. 3AN-01-08914CI, at 33 (Alaska Super., Feb. 01, 2002). There, the Board received the census data on March 19, 2001, and had adopted four plans by April 18. *Id.* at 3, 10. The Board held 21 public hearings between May 4 and May 19. *Id.* at 33. But the Board continued to accept late-filed plans, including a revision of one of the third-party plans adopted earlier, which then became the basis for the Board’s final plan. *Id.* That revised plan was submitted on May 18. *Id.*

⁹²⁶ ARB000186-90. To the extent that the parties complain about Board Members drawing maps with staff or working individually prior to the adoption of Board v.3, and v.4, neither are improper Article VI, Section 10. *Cf.* Alaska Const. art. VI, § 9 (“Concurrence of three members of the Redistricting Board is required for actions of the board, but a lesser number may conduct hearings.”). If a single Board Member can conduct a hearing, then Board Members can certainly draft maps individually or in groups of two.

worked. The Board's decision to incorporate the public testimony it had already received on Board v.1 and v.2 prior to embarking on its five-week roadshow was a reasonable one.

Finally, some of the Plaintiffs generally assert that the Board's public outreach was inadequate, that it was required to hold public hearings on the final plan, or that it must provide for public comment after every districting decision.⁹²⁷ Due process does indeed require at the very least notice and an opportunity to be heard.⁹²⁸ But here, the Board provided much more than the constitutional bare minimum. The Board embarked on a five-week public roadshow from Ketchikan to Utqiagvik, eliciting 63 hours of public testimony.⁹²⁹ The Board also held statewide teleconferences and virtual meetings, even accommodating requests for Zoom meetings from smaller communities.⁹³⁰ And throughout the entire process the Board elicited and received countless written submissions by mail, e-mail, and through the Board's website.⁹³¹

As noted above, this court reads Section 10 to require a "good-faith effort" to elicit public testimony to the greatest extent practicable.⁹³² This standard incorporates technological advances that have made—and will continue to make—the redistricting process much more accessible to the public. This standard also incorporates practical considerations. Indeed, if the Board had to stop working and seek public testimony after every single decision, it would never finish before the 90-day deadline. Viewing the record as a whole, this court finds that the Board made a good-faith effort to provide the public with a meaningful opportunity to submit comments and testimony on the proposed house districts throughout the redistricting process.

⁹²⁷ Mat-Su 126; Skagway PFFCL 49; Valdez 51.

⁹²⁸ *Haggbloom v. City of Dillingham*, 191 P.3d 991, 995 (Alaska 2008).

⁹²⁹ ARB001698-705.

⁹³⁰ ARB001699-703; Skagway Ex. 2005 (Oct. 27, 2021).

⁹³¹ ARB000005-6, 167, 501. The record contains over 2500 pages of verbal and written comments submitted to the Board. See ARB001709-4347.

⁹³² But as to argument that the Board must also hold public hearings on the final plan, the plain text limits the "public hearings" requirement to only "plans proposed by the board," i.e., "proposed plans" and not the "final plan." Alaska Const. art. VI, § 10.

H. Other Due Process Issues

The Plaintiffs also raise a number of ancillary issues under the banner of due process violations. First, Valdez and Skagway allege that the Board was unprepared for the census data and began the mapping process late.⁹³³ Prior to receipt of the census data the Board certainly could have familiarized itself further with the districting software and the geographic data.⁹³⁴ But the Board held its first public mapping session within two weeks of receiving the census data and used the software extensively before reconvening on September 7.⁹³⁵ And in the end, the parties do not dispute that the Board proposed two statewide house district plans prior to the 30-day deadline. This court finds that if any alleged delay did occur, it was harmless, at least as far as the house districts are concerned.

Second, Valdez and Skagway allege data abnormalities and “persistent confusion” as a result of inconsistent map numbering.⁹³⁶ The only alleged data abnormalities occurred after the Board adopted the final plan and published the corresponding population deviation table on its website.⁹³⁷ The Board erroneously used the district numbering from an earlier version of the house district map, but the deviation table was updated as soon as staff noticed this error.⁹³⁸ No party argues that the final plan’s total population deviation of 7.48%⁹³⁹ is factually incorrect or that the Board’s oversight was in any way prejudicial. And despite any alleged confusion regarding district numbering between the maps, this court’s review of public testimony reveals very little. This is because members of the public primarily testified regarding what other communities they wished to be districted with and what socio-economic factors supported their conclusions.⁹⁴⁰ Some testified that they preferred how certain maps treated their

⁹³³ Skagway PFFCL 42-45; Valdez PFFCL 44-47.

⁹³⁴ Brace Corrected Aff. 10

⁹³⁵ Torkelson Supp. Aff. 3-6.

⁹³⁶ Skagway PFFCL 62-63; Valdez PFFCL 65-66.

⁹³⁷ Brace Corrected Aff. 11-14.

⁹³⁸ Torkelson Supp. Aff. 6.

⁹³⁹ ARB000117.

⁹⁴⁰ See, e.g., ARB001712 (requesting that smaller communities on the Kenai Peninsula reliant on Homer as a hub be included in the same district).

communities over others,⁹⁴¹ but the parties have produced no affidavits from any individuals who were effectively precluded from testifying because they were confused about the precise district numbers. There are always honest mistakes and inevitable hiccups that reveal ways that future Boards can improve upon their predecessors. But none of these minor issues violate due process.

Finally, the Plaintiffs raise general claims asserting that Board Members allocated disparate weight to certain public testimony and constitutional criteria to advance their own individual priorities.⁹⁴² This court has already addressed these issues as they pertain to the districts the parties have specifically challenged. But as a more general matter and as to districts *not* specifically challenged, this court has not heard adequate argument or testimony to determine whether the Board's inconsistent application of redistricting criteria rise to such a level as to violate due process.⁹⁴³ Moreover, as described more thoroughly above, the constitutional criteria are *intended* to be balanced against one another in light of public testimony and practicability. Depending on the circumstances, mechanically applying the same criteria in a uniform manner would be entirely unreasonable and—due to Alaska's geography—likely impossible. This Court therefore declines to grant relief on any of the various generalized inconsistencies the parties have alleged.

Finally, some Plaintiffs argue that the Board violated Section 10 by failing to hold a full 60 days of public comment on the only proposed plans adopted within the 30-day constitutional deadline, *i.e.*, Board v.1 and v.2.⁹⁴⁴ But this Court believes the parties draw too fine a distinction. This Court sees no reason why the “good-faith effort” standard is not equally applicable to compliance with constitutional deadlines. It is simply not

⁹⁴¹ See, e.g., ARB001711 (objecting to the Board's failure to preserve existing district boundaries around Lake Otis and stating a preference for the AFFR map).

⁹⁴² Mat-Su PFFCL 126-27; Skagway PFFCL 63-107; Valdez PFFCL 66-113.

⁹⁴³ For example, Skagway alleges that Member Borromeo improperly coordinated with outside parties to advance the Doyon Coalition's priorities. Skagway PFFCL 70. But the Doyon Coalition's map actually would have accommodated Skagway's request to remain in a district with Downtown Juneau. ARB001445. Such non sequiturs in the briefings are legion.

⁹⁴⁴ The East Anchorage Plaintiffs also assert a Section 10 violation by failing to include proposed senate pairings in any of the Board's proposed plans. This claim is addressed separately.

practicable to limit the public comment period to only those plans formally adopted as v.1 and v.2.

XII. OPEN MEETINGS ACT

A. The Open Meetings Act

This Court has previously ruled that the Redistricting Board is subject to the Open Meetings Act.⁹⁴⁵ The Open Meetings Act provides that “[a]ll meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law.”⁹⁴⁶ A “meeting” is subject to the Act when a majority of the members are present and “a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decision for a public entity.”⁹⁴⁷

One exception to the Open Meetings Act is that an entity subject to the Act may enter an “executive session” for specific purposes. These purposes are limited to “(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity; (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; (3) matters which by law, municipal charter, or ordinance are required to be confidential; and (4) matters involving consideration of government records that by law are not subject to public disclosure.”⁹⁴⁸

In order to properly enter an executive session, the Board must first be in a public meeting, and a motion must be made to convene an executive session consistent with one of the elements under section (c) of the Open Meetings Act.⁹⁴⁹ “The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in

⁹⁴⁵ Order Re Motion for Rule of Law – Attorney Client Privilege at 12 (Jan. 18, 2022).

⁹⁴⁶ AS 44.62.310(a).

⁹⁴⁷ AS 44.62.310(h)(2)(A).

⁹⁴⁸ AS 44.62.310(c)(1)-(4).

⁹⁴⁹ AS 44.62.310(b).

private.”⁹⁵⁰ Nothing beyond the subjects mentioned in the motion may be considered during an executive session “unless auxiliary to the main question.”⁹⁵¹ No action may be taken during an executive session other than to direct an attorney regarding the handling of a particular legal matter.⁹⁵²

Where a meeting subject to the Open Meetings Act violates the statute, any action taken during that meeting is voidable.⁹⁵³ However, a violation can be cured by holding another meeting that adheres the notice requirements and conducts “a substantial and public reconsideration of the matters considered at the original meeting.”⁹⁵⁴ A court may only hold an action taken at a meeting in violation of the Open Meetings Act void if it finds that, “considering all of the circumstances, the public interest in compliance with [AS 44.62.310] outweighs the harm that would be caused to the public interest and to the public entity by voiding the action.”⁹⁵⁵ The court is instructed to consider the following in determining whether to void an action:

- (1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;
- (2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;
- (3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
- (4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;
- (5) the amount of time that has passed since the action was taken;
- (6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;

⁹⁵⁰ AS 44.62.310(b)

⁹⁵¹ AS 44.62.310(b).

⁹⁵² AS 44.62.310(b).

⁹⁵³ AS 44.62.310(f).

⁹⁵⁴ AS 44.62.310(f).

⁹⁵⁵ AS 42.62.310(f).

(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were willful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312(a).⁹⁵⁶

The Open Meetings Act includes a section that clarifies the policy of the state and the intent of the Open Meetings Act. Alaska Statute section 44.62.312 states:

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions.

B. The Redistricting Board's Use of Executive Sessions

Several Plaintiffs challenge the Board's use of executive sessions claiming they were improperly noticed or used for improper purposes. The Court is limited in its ability to analyze whether a particular executive session was held in accordance with the law, as the Court pull back the curtain entirely and understand exactly what happened during

⁹⁵⁶ Alaska Statute 44.62.310(f)(1)-(9).

these sessions. However, the Court does acknowledge, based on the transcripts, that Board members typically moved for executive session only by identifying the specific section of the Open Meetings Act which the meeting purportedly fell under.

On September 7, 2021, Board Member Bahnke moved for executive session under AS 44.62.310(c)(4) in order to “receive legal advice from Mr. Singer to inform the process and direction moving forward.”⁹⁵⁷

On September 17, 2021, Board Member Marcum requested an executive session be added to the schedule for September 20, 2021, as Member Binkley articulated, to receive “guidance from the Board’s legal counsel on some areas that we have to be cautious about.”⁹⁵⁸ However, an executive session did not occur on September 20, 2021.⁹⁵⁹

On November 2, 2021, Board Member Bahnke made a motion to enter executive session under AS 44.62.310(c)(3) and (4) and quoted the statute.⁹⁶⁰ The November 2, 2021 session lasted roughly two and a half hours.⁹⁶¹

On November 5, 2021, at the beginning of the proceeding, Board Member Simpson requested the Board enter executive session to receive advice from counsel regarding a Voting Rights issue and evaluate where the Board stood on that question.⁹⁶² Board Member Simpson then moved the Board to enter Executive Session “for the purpose of receiving legal advice” under AS 44.62.310(c)(3), quoting the statute.⁹⁶³ Upon exiting this session, Board Member Marcum explained that she applied the “legal parameters” to map v.3.⁹⁶⁴

⁹⁵⁷ Board Meeting Transcript 29:17-22 (Sept. 7, 2021).

⁹⁵⁸ Board Meeting Transcript 277:8-20 (Sept. 17, 2021).

⁹⁵⁹ Board Meeting Minutes at 1 (Sept 20, 2021), ARB 175.

⁹⁶⁰ Board Meeting Transcript 68:23-25, 69:1-4 (Nov. 2, 2021).

⁹⁶¹ Board Meeting Minutes at 4 (November 2-4, 2021), ARB 196.

⁹⁶² Board Meeting Transcript 2:17-22 (November 5, 2021).

⁹⁶³ Board Meeting Transcript 3:2-8 (Nov. 5, 2021).

⁹⁶⁴ Board Meeting Transcript 6:1-10 (Nov. 5, 2021).

Also on November 5, 2021, Board Member Bahnke initially requested the Board enter executive session before considering the final map.⁹⁶⁵ What followed was a heated discussion between Board Members Marcum and Borromeo, where Board Member Marcum states that she believes it is inappropriate to criticize another's map during public session, and felt such deliberative discussions were only appropriate during "private" sessions.⁹⁶⁶ At the end of this discussion, Board Member Borromeo moved the Board to enter executive session under Alaska Statute 44.62.310(c), quoting the statute.⁹⁶⁷

On November 8, 2021, Chairman Binkley articulated that the Voting Rights Act Consultant was waiting online and as such, asked for someone to make a motion that that Board should enter Executive Session in order to speak with the VRA consultant "on some of the issues that are before [the Board] with this process."⁹⁶⁸ Board Member Borromeo subsequently moved the Board to enter Executive Session "for purposes related to receiving legal counsel for the Redistricting Board."⁹⁶⁹

On November 8, 2021, following a suggestion by Board Member Marcum that there may be questions regarding a "race issue" Mr. Singer suggested such questions should be discussed in executive session.⁹⁷⁰ Following other discussion regarding Fairbanks pairings and district numbering,⁹⁷¹ the Board entered an executive session for legal advice regarding the proposed Senate pairings in Anchorage.⁹⁷² The Board exited Executive Session and entered recess at 6:25 p.m., and explained that the Board would reenter Executive Session immediately the following morning at 9:00 a.m.⁹⁷³

On November 9, 2021, the Board entered Executive Session at 9:00 a.m. without a motion being made during public session.⁹⁷⁴ The Board reentered public session explaining that it was confronted with many legal issues as it approached finalizing the

⁹⁶⁵ Board Meeting Transcript 171:19-25, 172:1-3 (Nov. 5, 2021).

⁹⁶⁶ Board Meeting Transcript 172:20 – 184:8 (Nov. 5, 2021).

⁹⁶⁷ Board Meeting Transcript 184:25, 185:1-8 (Nov. 5 2021).

⁹⁶⁸ Board Meeting Transcript 104:24-25, 105:1-7 (Nov. 8, 2021).

⁹⁶⁹ Board Meeting Transcript 105:8-11 (Nov. 8, 2021).

⁹⁷⁰ Board Meeting Transcript 199:2-25, 200:1-25, 201:1 (Nov. 8, 2021).

⁹⁷¹ Board Meeting Transcript 206:3–214:14 (Nov. 8, 2021).

⁹⁷² Board Meeting Transcript 215:18-25, 216:1-13 (Nov. 8, 2021).

⁹⁷³ Board Meeting Transcript 217:3-25, 218:1-12 (Nov. 8, 2021).

⁹⁷⁴ Board Meeting Minutes at 6 (Nov. 8-10, 2021), ARB 215.

Senate pairings.⁹⁷⁵ As Chairman Binkey was providing this explanation to the public, Board Member Marcum interrupted and immediately moved to accept senate pairings.⁹⁷⁶ The motion passed with pushback from Board Members Borromeo and Bahnke.⁹⁷⁷ Board Member Borromeo expressed very strong opposition to pairing then-numbered districts 18 and 24.⁹⁷⁸ Motions to reconsider the vote failed.⁹⁷⁹

C. Vague Motions Relating to Executive Sessions

The Plaintiffs, particularly East Anchorage, allege that the Board was vague in specifying the purpose of executive sessions in violation of AS 44.62.310(b), which specifies that a motion to convene Executive Session should be made “clearly and with specificity” and the subject of the session should be described to the extent possible without defeating the purpose of discussing in executive session.⁹⁸⁰ Plaintiffs also allege that the Board adopted final senate pairings without considering public testimony and misrepresenting public testimony.

The Board at times entered Executive Session on a motion that only stated the relevant section of AS 44.62.310 under which the Executive Session was to be convened and did not state the subject of the meeting or provide any further information as required by statute. This was done on September 7, November 2, twice on November 5, and November 9. There were also times when the reasoning for the executive session was expressed with some level of specificity at some other time in the Board Meeting. However, the statute is clear. The motion to convene an executive session itself must “clearly and with specificity describe the subject of the proposed executive session.”⁹⁸¹ Only specifying the relevant section of the Open Meetings Act is inconsistent with the statutory mandate that the motion identify the subject of the session and made “clearly and with specificity.”

⁹⁷⁵ Board Meeting Transcript 2:1-7 (Nov. 9, 2021).

⁹⁷⁶ Board Meeting Transcript 2:1-25, 3:1-3 (Nov. 9, 2021).

⁹⁷⁷ Board Meeting Transcript 3:12-25, 4:1-9, 8:12–15:14 (Nov. 9, 2021).

⁹⁷⁸ Board Meeting Transcript 8:20–11:5 (Nov. 9, 2021).

⁹⁷⁹ Board Meeting Transcript 8:12–14:16 (Nov. 9, 2021).

⁹⁸⁰ Alaska Statute 44.62.310(b).

⁹⁸¹ Alaska Statute 44.62.310(b).

When the Board motions for executive sessions without the required specificity, it leads to significant ramifications for the public. When the subject of the session is not made clear to the public, that lack of information erodes the public trust and leads to implications that the Board misused executive sessions. Such erosion of the public trust is contrary to the spirit and the express purpose of the Open Meetings Act. The statute makes clear that the Board has a responsibility to protect the public's "right to remain informed."⁹⁸² The public expects the Board will conduct its business openly, and when it cannot discern why the Board is entering into an Executive session, it allows for the inference that the executive session is being improperly convened.

Where executive sessions were convened following a vague motion which did not specify the meeting's subject, those executive sessions were in violation of the Open Meetings Act. These sessions occurred on September 7, November 2, November 5, and November 9. However, the Court declines to specifically hold senate pairings void on this conclusion. That the Board entered into Executive Sessions improperly as a procedural matter does not on its own indicate that the substance of the Executive Sessions was not otherwise proper. The Board's failure to comply with the procedural mandates in AS 44.62.310(a) harms the public confidence in public entities generally and more importantly in the highly visible and consequential redistricting process.

Despite these harms, on balance, the public interest in this procedural requirement does not outweigh the harm that would be caused were the Court to void the Senate pairings on that basis alone. The Court considers the public expense and that would be incurred were the Board to reconvene to select new Senate pairings. Further, in what is already an exceptionally expedited process, requiring the Board to reconvene would disrupt the already short timelines and jeopardize the ability to resolve all disputes in time for the coming election cycle. The Court also considers that new Senate pairing may themselves invite legal challenge despite every executive session being properly convened.

⁹⁸² AS 44.62.312.

Further, the Court does not take the procedural missteps by the Board related to convening executive session to be willful or flagrant. In utilizing the exact language of the statute, it appeared the Board was attempting to comply with the Open Meetings Act, and likely following the advice of counsel despite misunderstanding its requirements. Finally, the Board did, at times, properly convene executive session. The Court notes that in advance of the second executive session on November 8, 2021, Chairman Binkley suggested the motion include “a little more context in terms of why [the Board was] taking an executive Session.”⁹⁸³ The Court takes this to demonstrate a good faith attempt on the part of the Board to comply with the procedural requirements of the Open Meetings Act. While the Court does find a violation, it declines to void any specific action on that basis alone, recognizing that is the remedy permitted by the Act.

D. Due Process/OMA Challenge by East Anchorage

East Anchorage Plaintiffs allege that the Board violated their right to Due Process when it violated the Open Meetings Act to such a degree that the Court should require the Board to redraw the East Anchorage Senate Districts, particularly Senate District K. East Anchorage alleges that the Board held executive sessions that are not permitted by the Open Meetings Act and adopted senate pairings that were improperly developed during executive session, were not presented to the public allowing for meaningful public comment, and were made disregarding and/or misrepresenting public testimony. The Court addressed the executive session notice problem above.

The Alaska Supreme Court adopted a balancing test to determine what process is due.⁹⁸⁴ “This involves the consideration of three district factors: (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards; and (3) the government's interest, including the fiscal and administrative burdens that additional or substitute procedural requirements would entail.”⁹⁸⁵ The Superior Court has determined that due process in the context of

⁹⁸³ Board Meeting Transcript 215:25, 216:1-2 (November 8, 2021).

⁹⁸⁴ *Matter of K.L.J.*, 813 P.2d 276, 279 (Alaska 1991).

⁹⁸⁵ *Matter of K.L.J.*, 813 P.2d 276, 279 (Alaska 1991) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335, 96

redistricting is analogous to the framework of administrative law.⁹⁸⁶ Thus, due process requires the Board to give notice and an opportunity to comment to residents potentially affected by the Board's decisions.⁹⁸⁷ Further, the Board is not "afforded unfettered discretion during the redistricting process."⁹⁸⁸

The Court recognizes that meetings where two or fewer Board Members are present do not constitute meetings of a public entity subject to the Open Meetings Act. To be sure, the Board was aware of this and appeared to avoid meeting in groups of more than two unless in an OMA compliant public meeting. However, deliberative discussions, especially in the face of the Open Meetings Act, are not appropriate for executive, or otherwise private sessions, and it appears based on these exchanges that there were Board Members who did not understand the spirit or the purpose of the Open Meetings Act. The law is clear that when a public entity engages in deliberations, it is required that "their deliberations be conducted openly."⁹⁸⁹

To the extent that Board Members felt uncomfortable undertaking deliberative discussions in accordance with the law, that should have been considered before accepting a position on the Board. The Open Meetings Act is clear that "all meetings" are open to the public, and all deliberations likewise be conducted openly. This makes clear that the Board undergoes a process intended to be transparent, and does not allow for the Board to subvert the Open Meetings Act in order to keep certain uncomfortable discussions out of the public eye. This is contrary to the Open Meetings Act, and entirely inappropriate. Members of the Board are appointed to serve the public and create a redistricting map that conforms to the constitution, and the processes by which the map is created are subject to the Open Meetings Act.

The Court struggles to find a specific action of the Board that violates of the Open Meeting Act because the Court is not able to view the activity and discussion that occurred

S.Ct. 893, 903, 47 L.Ed.2d 18 (1976)).

⁹⁸⁶ *In re 2001 Redistricting Cases*, 2002 WL 34119573 at *20 (Alaska Super. Ct. Feb. 1, 2002).

⁹⁸⁷ *In re 2001 Redistricting Cases*, 2002 WL 34119573 at *20 (Alaska Super. Ct. Feb. 1, 2002)(citing *State of Alaska v. Hebert*, 743 P.2d 392 (Alaska Ct. App. 1987), *aff'd*, 803 P.2d 863 (Alaska 1990)).

⁹⁸⁸ *In re 2001 Redistricting Cases*, 2002 WL 34119573 at *20 (Alaska Super. Ct. Feb. 1, 2002).

⁹⁸⁹ Alaska Statute 44.62.312(a)(2).

during Executive Sessions. Earlier in the litigation parties have requested this Court pull back the curtain to allow a more complete look at the Board's communication with counsel to determine whether executive sessions were improperly used for discussion that should have been had in public. To be sure, the Court has serious concerns about the possibility the Board engaged in discussions in executive session that should have been held in public. The Court's concerns are elevated by discussion on the record that make clear that certain Board Members felt it was appropriate to discern for themselves what sort of discussions were appropriate to hold before public for their own comfort.

The Court cannot discern what happened in that executive session, but it does seem apparent that at least three Board members reached a "consensus" outside of the public view, which prompted Member Marcum to hold a vote immediately upon exiting session. The Court also notes that requiring the Board to change a handful of the Senate pairings is not as disruptive or expensive as requiring it to redraw the House Districts. The Court considers the lesser burden in determining whether to void the Senate pairings.

However, the actual "action" at issue – the senate pairing motion – was not taken during executive session. An action in violation of the Open Meetings Act is voidable. While the Court understands that a "consensus" appears to have been reached during Executive Session, the "action" that Plaintiffs ask the Court to void occurred during public session: the motion and vote to adopt particular Senate pairings. There is certainly an implication that some level of deliberative discussion happened out of the public view. But, even if the Court were to conclude there was an outright violation, the Court does not see an action to void that would permit the remedy Plaintiffs seek. The specific action to be voided – the vote on senate pairings - did not occur during Executive Session. Thus, the Court declines to void that action because it may have violated the Open Meetings Act.

E. Open Meetings and Attorney-Client Privilege

As noted previously, several Plaintiffs argue the Board's actions in the redistricting cycle violate the Open Meetings Act. This Court previously ruled the Open Meetings Act

applies to the Board,⁹⁹⁰ and in this Order has determined the Board violated the OMA. The Court now turns to the interplay of the OMA and the attorney-client privilege.

Throughout the discovery phase of this litigation, the Court heard several challenges to the Board's assertion of privilege. The Board asserted the privilege protected more than 2,000 documents representing communications between the Board, or its staff and counsel, and its VRA consultants. In response to motion practice, this Court conducted *in camera* review of approximately 500 documents asserted to be privileged. Most were determined to be privileged, but a few were ordered to be produced over the Board's objection.

During the motion practice addressed to the Rule of Law Motion brought by the Plaintiffs, the Board argued the Plaintiffs were effectively asking this court to order that violation of the OMA should result in a waiver of the attorney-client privilege – a remedy never before recognized by the Courts, and not authorized by the plain language of the OMA. This Court agreed that such a remedy is not authorized by existing law, and therefore declined to rule that such a remedy would be appropriate in this case.

For purposes of appellate review, the Court now expands on its earlier ruling because this is an issue of first impression. More importantly, this is an area of the law which would benefit from clear guidance from the Supreme Court (or legislative action).

The Alaska Supreme Court addressed the scope of the attorney-client privilege in an OMA case in *Cool Homes*.⁹⁹¹ There, the Court began by describing the question as “whether the Open Meetings Act and the lawyer-client privilege can coexist.”⁹⁹² The Court noted the attorney-client privilege exists for an entity subject to the OMA and “operates concurrently with the Open Meetings Act.”⁹⁹³ But the Court also noted the principles of confidentiality in the lawyer-public body relationship should not prevail over the principles of open meetings unless there is some recognized purpose in keeping the meeting confidential. Accordingly, in this context, the applicability of the attorney-client relationship

⁹⁹⁰ *Order re Motion for Rule of Law re Attorney-Client Privilege* at p12 (January 18, 2022).

⁹⁹¹ *Cool Homes, Inc. v Fairbanks North Star Borough*, 860 P.2d 1248, 1260 (Alaska 1993).

⁹⁹² *Id.*

⁹⁹³ *Id.*

must be narrow, and the privilege should not be applied blindly.⁹⁹⁴ “Rather, the rationale for the confidentiality of the specific communication at issue must be one which the confidentiality doctrine seeks to protect: candid discussion of the facts and litigation strategies.”⁹⁹⁵ “[O]nly when the revelation of the communication will injure the public interest or there is some other recognized purpose in keeping the communication confidential” should the privilege apply.⁹⁹⁶

The Supreme Court returned to the issue again in *Griswold*.⁹⁹⁷ The case involved the Public Records Act,⁹⁹⁸ rather than the OMA. The Court was faced with a public records request for all communications between the Homer Board of Adjustment, city employees and city attorneys leading up to that Board’s decision in a case involving Mr. Griswold.⁹⁹⁹ Griswold also requested copies of the attorney’s invoices to the City. On appeal, the Supreme Court was faced with deciding whether the attorney-client privilege and the attorney-work product doctrine should be recognized as state law exceptions to the Public Records Act. After reviewing the policy underlying the attorney-client privilege, and attorney-work product, the Court held these common law privileges should be recognized exceptions.¹⁰⁰⁰

Although the Court expressly held that a public board should have the benefit of confidential communications with its counsel, it also noted the important public interest in balancing the interest of the citizens to know what the servants of government are doing.¹⁰⁰¹ The Court also underscored the public policy expressed by the legislature as “*a bias in favor of public disclosure.*”¹⁰⁰² The Court went on to note the legislative “findings that ‘public access to government information is a fundamental right that operates to check and balance the actions of elected and appointed officials and to maintain citizen

⁹⁹⁴ *Cool Homes*, 860 P.2d at 1261-1262.

⁹⁹⁵ *Cool Homes*, 860 P.2d at 1262.

⁹⁹⁶ *Id.*

⁹⁹⁷ *Griswold v Homer City Council*, 428 P.3d 180, 186-188 (Alaska 2018).

⁹⁹⁸ Alaska Statute 40.25.120.

⁹⁹⁹ *Griswold*, 428 P.3d at 183.

¹⁰⁰⁰ *Griswold*, 428 P.3d at 188.

¹⁰⁰¹ *Griswold*, 428 P.3d at 187.

¹⁰⁰² *Griswold*, 428 P.3d at 186 (emphasis added).

control of government.”¹⁰⁰³ Because of these important policies involving the public right to know, the *Griswold* Court held that both “the attorney-client and work-product privileges should be ‘construed narrowly to further the legislature’s goal of broad public access.’”¹⁰⁰⁴

This Court is unaware of any Alaska court decision addressing whether a public board’s violation of the Open Meetings Act should result in a waiver of otherwise privileged communications. However, in a recent decision involving redistricting litigation, the Michigan Supreme Court was faced with a similar question. In *Detroit News*,¹⁰⁰⁵ the Court was faced with a request for a recording of a closed-session meeting of that state’s redistricting commission. The Court first noted that Michigan voters had recently approved an initiative removing the responsibility for redistricting from the legislature, and instead placing it in the hands of an independent body. The Court noted “the voters chose to ring the body with transparency requirements, forcing much, if not all, of the Commission’s work into the daylight.”¹⁰⁰⁶ The Michigan Supreme Court recognized the continued need for privileged and confidential communications between the Commission and attorneys for the Commission, but ultimately held that adoption and development of redistricting plans is part of the “core business” of the redistricting commission. Consequently, legal advice regarding the development of such plans should not be protected by privilege.¹⁰⁰⁷ Because the lawyer’s advice and communications during a confidential session about development of the redistricting plans was part of the core business of the commission, the Michigan court ordered disclosure of the attorney’s legal memoranda discussed at the closed session. It also further ordered disclosure of the recording from the confidential session.¹⁰⁰⁸

In effect, the Michigan Court threw open the doors to that Commission’s executive session. In so doing, the Court also rejected the Commission’s argument that litigation over its plans was inevitable, and therefore the meeting was properly confidential because

¹⁰⁰³ *Griswold*, 428 P.3d at 186 (citing *Capital Info. Grp. v State, Office of the Governor*, 923 P.2d 29, 33 (Alaska 1996) (quoting ch.200, § 1, SLA 1990)).

¹⁰⁰⁴ *Griswold*, 428 P.3d at 188 (footnote and citations omitted).

¹⁰⁰⁵ *Detroit News, Inc. v Independent Citizens redistricting Commission*, __ N.W.2d ___, 2021 WL 6058031 (Michigan) (December 20, 2021).

¹⁰⁰⁶ *Detroit News*, 2021 WL 6058031, at *4.

¹⁰⁰⁷ *Detroit News*, 2021 WL 6058031 at *8.

¹⁰⁰⁸ *Detroit News*, 2021 WL 6058031 at *9.

it was held in anticipation of litigation. “Indeed, allowing the simple prospect of litigation to shield the Commission’s discussions on how to make a map would threaten to swallow the open-meeting requirement altogether.”¹⁰⁰⁹ In so doing, the Court noted that legal advice on how to draw a map is akin to expert advice on demographics. Since the Commission is charged with drawing legal maps, the Court concluded any such legal advice was part of the core business of the Commission and subject to the requirement that the Commission conduct its business at open meetings.¹⁰¹⁰

This Court agrees with the rationale of the Michigan Court in *Detroit News*. The Alaska Redistricting Board is charged with the constitutional duty to draw legal maps that meet the constitutional criteria. If the Board violates the Open Meetings Act by entering into executive session for the purpose of obtaining legal advice on map drawing, that appears to be contrary to the strong public policy in favor of open government. Accordingly, this Court would hold that an appropriate remedy for violation of the OMA would include opening the door to discussions held during executive session, regardless of the presence of an attorney.

As noted earlier, the Court cannot say the Board’s assertion of privilege was unfounded based on the current state of the law, or appeared to be made in bad faith. Further, there is simply no question the Board (and its counsel) appears to have been operating under the good faith belief that its communications with counsel were privileged. To throw open the doors in the middle of this redistricting litigation and require production otherwise confidential communications when the Board as the client expected the communications would remain confidential is an extraordinary remedy. Indeed, that remedy is the antithesis of the policy underlying the attorney-client privilege. As the Court noted in *Mendel*, the privilege is designed to encourage those who may have committed a prior wrong to seek legal advice, and perhaps curtail such conduct in the future.¹⁰¹¹ For that reason, the Supreme Court distinguishes between past and ongoing or future wrongdoing even where the fraud or crime exception may apply.¹⁰¹² For these reasons,

¹⁰⁰⁹ *Detroit News*, 2021 WL 6058031 at *8.

¹⁰¹⁰ *Detroit News*, 2021 WL 6058031 at *8.

¹⁰¹¹ *In Re Mendel*, 897 P.2d at 74.

¹⁰¹² *Id.*

this Court did not order production of attorney-client materials, and does not determine that the Board waived its privilege with counsel. However, the Court strongly encourages the Supreme Court to address this issue on review to provide guidance for future redistricting cycles and other public entity litigation.

XIII. SUMMARY AND CONCLUSION

For all of the reasons discussed above, the Court makes the following conclusions of law:

1. The Board violated the rights of the East Anchorage Plaintiffs under the Equal Protection Clause of the Alaska Constitution, Article I, Section 1, by pairing House District 21–South Muldoon with the geographically and demographically distinct House District 22–Eagle River Valley to create Senate District K.
2. The Board violated the rights of the East Anchorage and Skagway Plaintiffs under the Due Protection Clause of the Alaska Constitution, Article I, Section 7, by failing to take a “hard look” at House District 3 and Senate District K in light of the clear weight of public testimony.
3. The Board violated Article VI, Section 10 by failing to hold meaningful public hearings on proposed Senate Districts prior to adoption.
4. The Board violated Article VI, Section 10 by failing to include Senate District pairings in any proposed plan adopted before the 30-day constitutional deadline.
5. The Board violated Article VI, Section 10 by failing to make a good-faith effort to accommodate public testimony in regard to House District 3 and Senate District K.
6. The Board violated the Open Meetings Act, AS 44.62.310-320 in its improper use of executive session, but the violation does not, on balance, require the Court to void all actions taken by the Board in executive sessions.

7. In all other respects, the Board did not violate the Plaintiffs' rights under Article I, Sections 1 and 7, or Article VI, Sections 6 and 10.

This matter should be remanded to the Board to address the deficiencies in the Board plan consistent with this order.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 15th day of February, 2022.

A handwritten signature in black ink, appearing to read 'T. Matthews', written over a horizontal line.

Thomas A. Matthews
Superior Court Judge

I certify that 2/15/22 a copy of this Order
was sent to the following:

A Murfitt	amurfitt@brenalaw.com
B Fontaine	bfontaine@hwb-law.com
B Taylor	btaylor@schwabe.com
Ben Farkash	ben@anchorlaw.com
E Houchen	ehouchen@brenalaw.com
Eva Gardner	Eva@anchorlaw.com
Gregory Stein	greg@baldwinandbutler.com
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Holly Wells	hwells@bhb.com
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Jake Staser	jstaser@brenalaw.com
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CC: Susan Orlansky

Judicial Assistant



Mara Michaletz
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Appendix A – Orders issued from 12-15-21 to 2-10-22

2.10.22

Order Granting Motion For Leave To Join Briefing As Amici Curiae

2.7.22

Order Following Further In Camera Review

2.7.22

Order Re Various Pre-Trial And Mid-Trial Motions

2.3.22

Order Granting Motion For Leave To Submit Briefing As Amici Curiae

2.2.22

Order Re East Anchorage Plaintiffs' Motion To Amend Application To Expand Equal Protections

1.27.22

Order Re Valdez's Motion For Clarification And Reconsideration Of Order On Oral Motion

1.25.22

Order Granting In Part Arb Motion To Reconsider Following Further In Camera Review

1.22.22

Order Following In Camera Review And For Production Of Additional Privileged Documents For In Camera Review

1.22.22

Order Re Valdez's Expedited Motion For Clarification And Reconsideration Of Order On Oral Motion

1.22.22

Order Re Arb Motion For Partial Reconsideration Of Order Following In Camera Review

1.20.22

Fifth PTO

1.19.22

Order Denying Stay

1.18.22

Order Re Motion For Rule Of Law – Attorney Client Privilege

1.17.22

Order Granting Calista Plaintiffs' Unopposed Motion For Extension Of Time To File Direct Testimony Of Expert Witness Randy Ruedrich

1.15.22

Order Denying Motion To Compel Discovery Responses

1.14.22

Order Regarding Arb Motion For Reconsideration Or Alternatively To Stay

1.13.22

Order For Production Of Privileged Documents For In Camera Review And Plaintiff Reply Briefs

1.13.22

Order Re In Camera Review Of Ms. Bahnke's Notes (Denying Production)

1.12.22

ORDER RE MOTION TO DISMISS

1.12.22

Order For Arb Response To Motions For Rule Of Law Re Scope Of Attorney-Client Privilege

1.10.22

Order Granting Motion Stipulated Protective Order

In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI

APPENDIX A

Orders Issued from 12.15.21 to 2.10.22

Page 2 of 3

Exc. 0778

1.5.22

Order Canceling Oral Argument On Motion To Dismiss

1.4.22

Fourth PTO

12.28.21

Order Granting Motion To Intervene As Defendants Pursuant To Rule 24(A) And 24(B)

12.22.21

Third PTO

12.21.21

Order: Discovery Hearing And Submissions

12.21.21

Second PTO

12.15.21

Order Granting Unopposed Motion For Leave To Amend Application To Compel The Alaska Redistricting Board To Correct Its Senate District Pairings In Anchorage

12.15.21

PTO

Appendix B – Depositions

1.19.22

Deposition – Chase Hensel

1.15.22

Deposition – Peter Torkelson

1.12.22

Deposition – Randy Ruedrich

1.11.22

Deposition – John Binkley

1.10.22

Deposition – Nicole Borromeo

1.08.22

Deposition – Budd Simpson

1.06.22

Deposition – Melanie Bahnke

1.04.22

Deposition – Bethany Marcum

SECOND AMENDED EXHIBIT LIST

Case No. 3AN-21-08869CI ☐ Pretrial Hearing ☒ Trial Date of Trial/Hearing: January 21, 2022
 In the Matter of the 2021 Redistricting Plan vs. _____
 Name of Party: Alaska Redistricting Board ☐ Pltf. ☒ Def.
 (There must be a separate exhibit list for each party.)
 Party's Attorney: Matt Singer

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY							
		ID by Wit.	Off.	Adm.	Denied	Withdrawn date	To Jury/Judge	From Jury/Judge	To Ex. Stor.
✓ 1000	AK Const. Article VI, Section 6	CH	✓	2/4/22					
✓ 1001	AK Const., Article VI, Section 10		✓	2/4/22					
✓ 1002	Valdez Sports Schedules	SS	✓	2/4/22					
1003	Census Maps								
1004	Valdez Maps	SS							
1005	Skagway Maps								
1006	AFFER Proposed District 38-S Map								
✓ 1007	Census Table		✓	2/4/22					
✓ 1008	SE Borough Boundaries Map		✓	2/4/22					
✓ 1009	Mat-Su Cities Map		✓	2/4/22					
1010	Mat-Su Valdez Income Charts					2/4/22			
✓ 1011	E. Anchorage Plaintiffs Discovery Resp.		✓	2/4/22					
✓ 1012	Illinois 4th Congressional District Map		✓	2/4/22					

I certify that identification markings on exhibits are accurate, and that the check boxes above accurately reflect the hearing/trial record. (☐ not required in this case per local court practice or court order)

Date _____ ☐ Atty/Party Sig. _____ ☐ Atty/Party certified orally on record

I certify that exhibits checked "To Jury/Judge" on this and all attached pages were given to the jury/judge for deliberation/advisement.

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EXHIBIT LIST CONTINUATION SHEET

Case No. 3AN-21-08869CI

Name of Party: Alaska Redistricting Board

[illegible]

4TH AMENDED EXHIBIT LIST
(There must be a separate exhibit list for each party.)

Court Case No.: 3AN- 21-08869 CI

☐ Pretrial Hearing ☒ Trial

Om the Matter of the 2021 Redistricting Plan vs. _____

Name of Party: Municipality of Skagway Borough & Brad Ry

☒ Plaintiff

☐ Defendant

Party's Attorney: Robin O. Brena, Brena, Bell & Walker, P.C.

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY						
		ID by Wit.	Offered	Admitted	With- drawn date	To Jury/ Judge	From Jury/ Judge	To Exhbt Clerk
2000	Affidavit of Brad Ryan.2022-01-05			2/4/22				
2001	Affidavit of Andrew Cremata.2022-01-05							
2002	Affidavit of Janice Wrentmore.2022-01-05							
2003	Affidavit of John Walsh.2022-01-05							
2004	Affidavit of Expert Kimball Brace, Expert Testimony. 2022-01-15							
2005	Skagway Public Meeting Comments Transcript.2021-10-27							
2006	Juneau Public Meeting Comments.2021-09-27							
2007	Simpson Email 2021-10-31 ARB00128481	BS						
2008	NOAA Chart 17316							
2009	NOOA Chart 17315							
2010	NOOA Chart 17317							
2011	Excerpts from Simpson Handwritten Notes							
2012	2022.01.31 Baxter Letter to Wakeland							
2013	2000-10-03 Juneau Regular Election Archive							
2014	2003-04-17.Skagway Resolution 03-08R							

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EXHIBIT LIST CONTINUATION SHEET

Court Case No.: 21-08869 CI Name of Party _____

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY						
		ID by Wit.	Offered	Admitted	With- drawn date	To Jury/ Judge	From Jury/ Judge	To Exhbt Clerk
2015	2004-07-04.Skagway Election Results		2/4/22					
2016	2005-03-18.Mayor Boucyr ltr		2/4/22					
2017	2016-12-15.Juneau Empire article		2/4/22					
2018	Mendenhall Bing Map Searches							
2019	Board emails ARB00158164		2/4/22					
2020	Skagway Alternative A - Statewide Data		2/4/22 - partial					
2021	Skagway Alternative B - Statewide Data		2/4/22 - partial					
2022	Aerial Map of Mendenhall Board District Line		2/4/22					
2023	Aerial Map of Mendenhall Board and Skagway Lines	BS	2/4/22					
2024	Aerial Map of Ferry Terminal to District Line		2/4/22					
2025	District Size Comparison		2/4/22					
	All Board Member Deposition Transcripts and Exhibits							
	All Board Meeting Transcripts							
	Cross-Exam Exhibits as needed							
	Exhibits as needed							
	Interactive V.1, V.2, V.3 and V.4 Final Plan Map							
	Interactive Valdez Plan Maps							

AMENDED
EXHIBIT LIST

(There must be a separate exhibit list for each party.)

Court Case No.: 3AN- 21-08869 CI ☐ Pretrial Hearing ☒ Trial

On the Matter of the 2021 Redistricting Plan vs. _____

Name of Party: City of Valdez and Mark Detter ☒ Plaintiff ☐ Defendant

Party's Attorney: Robin O. Brena; Brena, Bell & Walker, P.C.

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY						
		ID by Wit.	Offered	Admitted	With- drawn date	To Jury/ Judge	From Jury/ Judge	To Exhbt Clerk
3000	Affidavit of Nathan Duval.2022-01-05			2/4/22				
3001	Affidavit of Sheri Pierce.2022-01-05							
3002	Affidavit of Sharon Scheidt.2022-01-05							
3003	Affidavit of Kimball Brace, Expert Testimony.2022-01-15							
3004	Valdez Public Meeting Comment Transcripts. 2021-09-30 & E-Trans file							
3005	1994, 2002, 2013, 2021 Maps (ARB010411A, 412-413)							
3006	2013 Proclamation Population Data - District 9							
3007	Alaska Supreme Court Docket Excerpt							
3008	Census Data							
3009	Combined Public Comments Re Valdez (ARB Numbers)							
3010	Texts Messages Combined (ARB0155030-155159 & ARB0153012-0156033)							
3011	Valdez Resolution No. 21-41 w. Valdez Option 1 (ARB0155030-155159)							
3012	Valdez Resolution No. 21-42 w. Comments (ARB00135413-5420)							
3013	2002 Proclamation (ARB00135413-5420)							
3014	Emails Combined (ARB Numbers)							

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EXHIBIT LIST CONTINUATION SHEET

Court Case No.: 3AN-21-08869CI Name of Party City of Valdez and Mark Dettler

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY						
		ID by Wit.	Offered	Admitted	With- drawn date	To Jury/ Judge	From Jury/ Judge	To Exhbt Clerk
3015								
3016	(District 36 Demonstratives)							
3017	(Population by ANRC Within Districts)							
3018	(Population by Borough Within Districts)							
3019	(Population by City and CDP Within Districts)							
3020	2011 Proclamation Statewide Map							
3021	VDZ-3021.(Statewide Valdez Plan)							
3022	VDZ-3022.(Doyon Website Materials)							
3023	VDZ-3023.(Ciri Website Materials)							
3024	VDZ-3024.(ANCSA Enrollment 43 U.S.C. 1604)							
3025	VDZ-3025.(2013 & 2021 Map Comparisons)							
3026	Map 2013 & 2021 Proclamation							
3027	2021-12-22. Emergency Bycatch Petition							
3028	Fairbanks Resolution (ARB00075592-93)							
3029	MEMO DECISION & ORDER RE 2011 PROCLAMATION PLAN, 2012-02-03							
3030	Binkley-Torkelson Email (3-12-21) (ARB00158164-67)							
3031	Valdez A113 Statewide map							
3032	" A114 "				2/4/22			
	All Board Meeting Transcripts							
	All Board Member Depositions and Exhibits							
	Cross exam Exhibits as needed							
	Redirect Exhibits as needed							
	Interactive V.1, V.2, V.3 and V.4 Final Plan Maps							
	Interactive Valdez Plan Maps							

1/28/22

EXHIBIT LIST

Case No. 3AN-21-08869 CI ☐ Pretrial Hearing ☒ Trial Date of Trial/Hearing: Jan. 21, 2022
ITMO The 2021 Redistricting Plan vs. _____
 Name of Party: Calista Corp., W. Naneng, H. Sundown ☒ Pltf. ☐ Def.
 (There must be a separate exhibit list for each party.)
 Party's Attorney: Ashburn & Mason

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY							
		ID by Wit.	Off.	Adm.	Denied	Withdrawn date	To Jury/Judge	From Jury/Judge	To Ex. Stor.
CAL-5000	Calista Region Map			2/4/22					
CAL-5001	Peoples and Languages Map [Dep. Ex. 26]			2/4/22					
CAL-5002	Calista Interactive Trial Map			2/4/22					
CAL-5003	Yukon Kuskokwim Transportation Plan			2/4/22					

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Date _____ ☐ Atty/Party Sig. _____ ☐ Atty/Party certified orally on record

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THIRD AMENDED

EXHIBIT LIST

Case No. 3AN-21-08869CI ☐ Pretrial Hearing ☒ Trial Date of Trial/Hearing: 01/21/2021
ITMO: 2021 Redistricting Plan vs. _____

Name of Party: East Anchorage Plaintiffs ☒ Pltf. ☐ Def.
(There must be a separate exhibit list for each party.)

Party's Attorney: Holly C. Wells; Mara E. Michaletz; William D. Falsey

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY							
		ID by Wit.	Off.	Adm.	Denied	Withdrawn date	To Jury/Judge	From Jury/Judge	To Ex. Stor.
6000	Senate pairing testimony packet - PRR Rsp			2/4/22					
6001	11.4.21 Letter to ARB fr MOA, ARB00058383			2/4/22					
6002	10.1.21 Email regional public call in option			2/4/22					
6003	1.7.22 Email M. Singer			2/4/22					
6004	Demographics provided 12.30.21 by ARB			2/4/22					
6005	Email Ruedrich to Simpson with incumbents			2/4/22					
6006	Sandberg presentation with Borromeo notes			2/4/22					
6007	11.9.21 Marcum email re Bahnke			2/4/22 - Partial					
6008	2013 Proclamation - Accompanying Findings								
6009	2002 proclamation of redistricting								
6010	3.2.21 email Torkelson - ARB adopted OMA								
6011	Email Torkelson and Binkley regarding RFI								
6012	9.16.21 Colligan email with Board								
6013	Allard letter of intent								

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EXHIBIT LIST CONTINUATION SHEET

Case No. 3AN-21-08869 CI

Name of Party: East Anchorage Plaintiffs

Exhibit No. Marked for ID	BRIEF DESCRIPTION OF EXHIBIT	FOR COURT USE ONLY							
		ID by Wit.	Off.	Adm.	Denied	Withdrawn date	To Jury/ Judge	From Jury/ Judge	To Ex. Stor.
6014	Health mandate from DHSS			2/4/22					
6015	MOA Watershed Boundaries								
6016	Chugach State Park Map								
6017	Map of JBER Recreation Areas								
6018	2002 Maps, Division of Elections								
6019	Jamie Allard MOA memo w/map, detachment								
6020	Board policies								
6021	MOA Park Service Ordinance								
6022	MOA Road Service Areas Ordinance								
6023	MOA Street Lights Service Ordinance								
6024	MOA Land-Use Ordinance								
6025	MOA Chugiak-ER Advisory Board Ordinance								
6026	Allard comments to Save Anchorage				2/4/22				
6027	Anchorage Resolution 2020 - 29			2/4/22					
6028	Obituary Senator Bettye Davis				2/4/22				
6029	Demonstrative Exhibit No. 1 - Renumbering			2/4/22					
6030	Deposition Ex. 9 - AK POLICY FORUM								
6031	Deposition Ex. 27 - Simpson 11.7.21 Email								
6032	Deposition Ex. 28 - Simpson 12.4.21 Email								
6033	Deposition Ex. 29 - Simpson 12.6.21 Email								
6034	Deposition Exhibit 30 - Simpson 11.6.21 Email								
6035	Deposition Ex. 41 - Torkelson 10.16.21 Email								

Page 2 of 3

TF-201 (11/21)(cs)

EXHIBIT LIST CONTINUATION SHEET

Civil Rule 43.1
Criminal Rule 26.1
Admin. Bulletin No. 9

EXHIBIT LIST CONTINUATION SHEET

Case No. 3AN-21-08869 CI

Name of Party: East Anchorage Plaintiffs

[illegible]

EXHIBIT LIST

Case No. 3AN-21-08869C1 ☐ Pretrial Hearing ☒ Trial Date of Trial/Hearing: 1/21/2022
ITMO: 2021 Redistricting Plan vs. _____

Name of Party: Intervenor-Defendants Doyon et al. ☐ Pltf. ☒ Def.

(There must be a separate exhibit list for each party.)
Party's Attorney: Sonosky, Chambers, Sachse, Miller & Monkman, LLP

[illegible]

I certify that identification markings on exhibits are accurate, and that the check boxes above accurately reflect the hearing/trial record. (☐ not required in this case per local court practice or court order)

Date _____ ☐ Atty/Party Sig. _____ ☐ Atty/Party certified orally on record

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Date _____ In-Ct. Clerk _____

I certify that all exhibits were ☐ placed in Interim Storage. ☐ returned to counsel/party per order of the court.

Date _____ In-Ct. Clerk _____ Date _____ Atty/Party Sig. _____

I certify that exhibits checked "To Exhibit Storage" on this and all attached pages have been placed in exhibit storage.

Date _____ Exhibit Clerk _____

Appendix D – Claims Raised

Wilson Amended Complaint

- Claim I – Alaska Statute 44.62.310-20 (Open Meetings Act)
- Claim II – Alaska Const. art. VI, § 10 (public hearings)
- Claim III – Alaska Const. art. I, § 7 (due process, procedural & substantive)
- Claim IV – Alaska Const. art. VI, § 6 (district boundaries)
- Claim V – Alaska Const. art. I, § 1 (equal protection)

Calista Amended Complaint

- Claim I – Alaska Const. art. VI, § 6 (district boundaries)
- Claim II – Alaska Const. art. I, § 1 (equal protection)

Mat-Su Amended Complaint

- Claim I – Alaska Const. art. I, § 1 (equal protection)
- Claim II – Alaska Const. art. I, § 7 (due process, procedural)
- Claim III – Alaska Const. art. VI, § 6 (district boundaries)

Valdez Amended Complaint

- Claim I – Alaska Statute 44.62.310-20 (Open Meetings Act)
- Claim II – Alaska Const. art. VI, § 6 (district boundaries)
- Claim III – Alaska Const. art. VI, § 10 (public hearings)
- Claim IV – Alaska Const. art. I, § 1 (equal protection)
- Claim V – Alaska Const. art. I, § 7 (due process, procedural & substantive)

Skagway Amended Complaint

- Claim I – Alaska Statute 44.62.310-20 (Open Meetings Act)
- Claim II – Alaska Const. art. VI, § 6 (district boundaries)
- Claim III – Alaska Const. art. VI, § 10 (public hearings)
- Claim IV – Alaska Const. art. I, § 1 (equal protection)
- Claim V – Alaska Const. art. I, § 7 (due process, procedural & substantive)

In the Supreme Court of the State of Alaska

In the Matter of the 2021 Redistricting Cases,

(Matanuska-Susitna Borough, S-18328)
(City of Valdez, S-18329)
(Municipality of Skagway, S-18330)
(Alaska Redistricting Board, S-18332)

Supreme Court No. **S-18332**

Order

Petitions for Review

Date of Order: **3/25/2022**

Trial Court Case No. 3AN-21-08869CI

Before: Winfree, Chief Justice, Borghesan and Henderson, Justices,
and Matthews and Eastaugh, Senior Justices.*
Eastaugh, Senior Justice, concurring.

On February 15, 2022 the superior court remanded the underlying redistricting case to the Alaska Redistricting Board for further proceedings on House Districts 3 and 4 and Senate District K of the 2021 Proclamation of Redistricting.¹ We now have before us four petitions for review arising from that decision: by the Board, the Municipality of Skagway Borough, the Matanuska-Susitna Borough, and the City of Valdez (with qualified voters joining the municipality petitions).² Because a redistricting matter has priority over all other matters pending before this court,³ and because a decision in this redistricting

* Sitting by assignment made under article IV, section 11 of the Alaska Constitution and Alaska Administrative Rule 23(a).

¹ See generally Alaska Const. art. VI (providing for creation of Redistricting Board, redistricting process leading to redistricting proclamation, and challenges to proclamation in superior court and then this court).

² See Alaska R. App. P. 216.5(h) (providing for petitions for review of superior court decision remanding redistricting case to the Redistricting Board).

³ See Alaska Const. art. VI, § 11 (providing that redistricting matter “shall have priority over all other matters pending before the . . . court”); Alaska R. App. P. 216.5(i) (same).

matter is required by April 1,⁴ the parties followed an expedited briefing schedule for fully briefed petitions due by March 2 and fully briefed responses due by March 10. We then held oral arguments on the petitions on March 18. Having considered the parties' briefing and oral arguments, we GRANT review under all four petitions.⁵ To now further expedite the redistricting process, we set out in summary fashion our decisions on the merits of the four petitions, with a formal opinion explaining our reasoning to follow:

House Districts 3 and 4

House Districts 3 and 4 are the subject of two petitions, one by the Board and one by the Municipality of Skagway Borough. We AFFIRM the superior court's determination that the house districts comply with article VI, section 6 of the Alaska Constitution⁶ and should not otherwise be vacated due to procedural aspects of the Board's

⁴ See Alaska R. App. P. 216.5(i) (providing that appellate decisions in redistricting challenges be decided no later than 60 days before statutory filing deadline for next statewide election).

⁵ Alaska Appellate Rule 403(a)-(g) governs petitions for review and generally contemplates a process of a party petitioning for review of a trial court ruling, describing why the ruling is incorrect and why immediate review is necessary, and opposing parties then filing responses; the appellate court has an opportunity to consider whether immediate review is warranted and may order full briefing and oral argument on legal issues presented if appropriate. Given the expedited and weighty nature of redistricting matters, we allowed full briefing on the merits of the parties' challenges and the opportunity for oral argument before we considered whether to grant review. We thank the parties, their attorneys, and amici curiae for their excellent presentation of the arguments in such an expedited fashion. We recognize this was no easy feat.

⁶ Article VI, section 6 instructs:

The Redistricting Board shall establish the size and area of house districts, subject to the limitations of this article. Each

work. We REVERSE the superior court’s remand to the Board for further proceedings under the superior court’s “hard look” analysis relating to public comments on the house districts. There is no constitutional infirmity with House Districts 3 and 4 and no need for further work by the Board.

House Districts 29, 30, and 36

The Matanuska-Susitna Borough and the City of Valdez separately challenge the superior court’s determination that House Districts 29, 30, and 36 do not violate article VI, section 6 of the Constitution and should not otherwise be vacated due to procedural aspects of the Board’s work. We AFFIRM the superior court’s determination, with one exception: We conclude that the so-called “Cantwell Appendage” violates article VI, section 6 of the Constitution. The Cantwell Appendage renders House District 36 non-compact without adequate justification. House District 36 reaches across a local borough boundary, within which voters are by law socio-economically integrated with other borough voters,⁷ to extract Cantwell residents from District 30 and place them in House District 36,

house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty. Each senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

⁷ See AS 29.05.031(a)(1) (requiring “social, cultural, and economic” integration before area may be incorporated as borough or unified municipality); *In re 2001 Redistricting Cases*, 44 P.3d 141, 146 (Alaska 2002) (recognizing same); *Hickel*

based primarily on the proposition that an apparent minority of Cantwell residents — shareholders of the Alaska Native Claims Settlement Act regional corporation headquartered in House District 36 — are more socio-economically integrated with similar shareholder residents in House District 36. But the Board’s briefing about House Districts 3 and 4 argues: “Nothing in [article VI, section 6] states that the Board should disregard compactness to increase an already socio-economically integrated area’s integration.”⁸ The Board mentions in its briefing that House District 30 was about 2% overpopulated and that moving the roughly 200 Cantwell residents eliminated about half the overage to the constitutionally targeted house district population of 18,335. This rendered both House Districts about 1% overpopulated. But House District 30’s approximately 2% overpopulation with the Cantwell residents included, and House District 36’s nearly perfect population without the Cantwell residents included, are well within constitutionally allowable parameters under our case law.⁹ We therefore REVERSE the superior court’s

v. Se. Conf., 846 P.2d 38, 51-52 (Alaska 1992) (recognizing same).

⁸ *Cf. Hickel*, 846 P.2d at 62 (“The requirements of article VI, section 6 shall receive priority *inter se* in the following order: (1) contiguousness and compactness, (2) relative socioeconomic integration, (3) consideration of local government boundaries, (4) use of drainage and other geographic features in describing boundaries.”). At oral argument the Board asserted that there is no required priority among the constitutional requirements of article VI, section 6 and that the Board has broad discretion to balance those requirements. The Board did not acknowledge this aspect of *Hickel* nor did the Board suggest anywhere in its briefing or during oral argument that *Hickel* was wrongly decided or that our long-standing precedent should be overruled.

⁹ The federal “Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable,” though some deviation is expected and permissible.

determination to this limited extent, and remand to the superior court to remand this aspect of the house districts to the Board to correct the constitutional error.

Senate District K

The superior court determined that Senate District K was unconstitutional on the grounds of equal protection,¹⁰ due process,¹¹ and violating the public hearings

Reynolds v. Sims, 377 U.S. 533, 577, 579-81 (1964); U.S. Const. amend. XIV, § 1. For example, keeping political subdivisions, such as boroughs, intact may justify some population deviation. *Reynolds*, 377 U.S. at 580-81.

We previously have held that under the Alaska Constitution deviations below 10% were minimal and required no justification absent improper motive. *See Hickel*, 846 P.2d at 47-48; *cf. Braun v. Borough*, 193 P.2d 719 (2008) (analyzing deviation in borough redistricting context). Although technological advances often will make it practicable to achieve even lower deviations, and under the Alaska Constitution the Board must make a good faith effort to do so, *see In re 2001 Redistricting Cases*, 44 P.3d at 146, we have upheld deviations greater than 1%, *see In re 2001 Redistricting Cases*, 47 P.3d 1089, 1094 (Alaska 2002). Eliminating the Cantwell Appendage would improve the compactness of District 36 and keep together voters in the same borough in District 30, and there is no showing that doing so would have more than a de minimis effect on the statewide House Districts' average population deviation. The resulting roughly 2% population deviation in District 30 thus is justified.

¹⁰ *See* Alaska Const. art. I, § 1; *Kenai Peninsula*, 743 P.2d at 1366 (“In the context of voting rights in redistricting and reapportionment litigation, there are two basic principles of equal protection, namely that of ‘one person, one vote’ — the right to an equally weighted vote — and of ‘fair and effective representation’ — the right to group effectiveness or an equally powerful vote.” (quoting John R. Low-Beer, *The Constitutional Imperative of Proportional Representation*, 94 YALE L.J. 163, 163-64 (1984))).

¹¹ *See* Alaska Const. art. I, § 7; *Hagblom v. City of Dillingham*, 191 P.3d 991, 995 (Alaska 2008) (“At a minimum, due process requires that the parties receive notice and an opportunity to be heard.”).

requirement.¹² The Board challenges this determination. We note that the superior court did not rule that the underlying house districts were unconstitutional and that no party asserts that the underlying house districts are unconstitutional. The superior court's determination relates solely to the senate pairing of house districts.¹³ We AFFIRM the superior court's determination that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution,¹⁴ and we therefore AFFIRM the superior court's remand to the Board to correct the constitutional error.

Conclusion

This matter is REMANDED to the superior court for action consistent with this order. We do not retain jurisdiction.

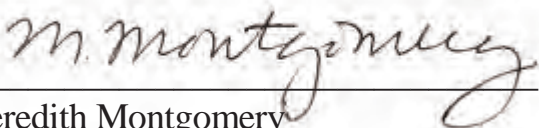
Entered at the direction of the court.

¹² See Alaska Const. art. VI, § 10 (“Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board.”).

¹³ See Alaska Const. art. VI, § 4 (requiring Redistricting Board to create 40 separate house districts and 20 senate districts, each composed of two house districts).

¹⁴ See *Hickel*, 846 P.2d at 45 & n.11 (explaining Constitution's contiguity, compactness, and socio-economic integration requirements “were incorporated by the framers of the reapportionment provisions to prevent gerrymandering,” including political gerrymandering); *In re 2011 Redistricting Cases*, 274 P.3d 466, 468 (Alaska 2012) (“The *Hickel* process also diminishes the potential for partisan gerrymandering and promotes trust in government.”).

Clerk of the Appellate Courts


Meredith Montgomery

EASTAUGH, Senior Justice, concurring.

I agree in full with the court’s resolution of these petitions. But I write separately because I have doubts about whether *Hickel v. Southeast Conference*¹ correctly described the priorities for applying the contiguity, compactness, and socio-economic integration criteria.² If I were reading the constitution in a vacuum, I would not necessarily conclude that the delegates agreed or that the Alaska Constitution’s text requires that the first two criteria should have priority over the third. But there was no challenge to *Hickel*’s description of those priorities in this case, nor any contention its description should not be given stare decisis effect. Moreover, my doubts do not affect the outcome of any of these petitions, even as to the “Cantwell Appendage,” because the asserted increase in socio-economic integration in House District 36 does not outweigh the diminution in that district’s compactness.

¹ 846 P.2d 38, 62 (Alaska 1992).

² See *id.* at 44-47, 62 (describing priorities for applying contiguity, compactness, and socio-economic integration criteria).

ITMO 2021 Redistricting Cases
Supreme Court File No. S-18332
Order Dated 3/25/22
Page 8

cc: Judge Matthews
Trial Court Clerk

Distribution:

From: "Melanie Bahnke" <melanie.bahnke@akredistrict.org>

To: "Singer, Matthew" <MSinger@schwabe.com>

Cc: "E. Budd Simpson" <bsimpson@stsl.com>, "Peter Torkelson" <Peter.Torkelson@akredistrict.org>, "John Binkley" <john.binkley@akredistrict.org>, "Nicole Borromeo" <nicole.borromeo@akredistrict.org>, "Budd Simpson" <budd.simpson@akredistrict.org>, "Bethany Marcum" <bethany.marcum@akredistrict.org>

Subject: Re: Draft Agendas for April 2-6

Date: Fri, 25 Mar 2022 21:56:48 -0000

Importance: Normal

My condolences to you and your wife and your family Budd.

Sent from my iPhone

On Mar 25, 2022, at 1:55 PM, Singer, Matthew <MSinger@schwabe.com> wrote:

Budd,

I suggested the testimony go first. As the Board's lawyer, I don't want to get into a dialogue or debate with public testimony. If I go first, I think we are asking for such exchanges.

Sent from my iPhone

On Mar 25, 2022, at 2:02 PM, E. Budd Simpson <bsimpson@stsl.com> wrote:

Peter,

I would suggest that we schedule Review of the Supreme Court Decision ahead of the Public Testimony portion of the meeting. Seems like that would be a good baseline for any further discussion, public or otherwise. I will likely miss that meeting due to my wife's mother's funeral being that day, in California, but I will catch up with someone to get briefed on it.

Thanks.

Budd

From: Peter Torkelson <Peter.Torkelson@akredistrict.org>

Sent: Friday, March 25, 2022 12:32 PM

To: John Binkley <john.binkley@akredistrict.org>; Nicole Borromeo <nicole.borromeo@akredistrict.org>; Melanie Bahnke <melanie.bahnke@akredistrict.org>; Budd Simpson <budd.simpson@akredistrict.org>; Bethany Marcum <bethany.marcum@akredistrict.org>

Cc: Singer, Matthew <MSinger@SCHWABE.com>

Subject: Draft Agendas for April 2-6

Good morning members,

Please find attached draft agendas for our upcoming potential meetings on April 2, 4, 5 and possibly 6 (if needed). Of course, if the Supreme Court does not require any changes, or if they require a large scale re-do, then these would be subject to change.

Exc. 0802

CONFIDENTIAL

ARB2-500139

My big concern is Monday as I'm catching a flight and have to be at the airport by 10am. The sooner the better for these meetings if possible. Can we just notice meetings through this week except the days others are traveling and cancel them if we don't have the remand in hand?

Sent from my iPhone

On Mar 28, 2022, at 5:03 PM, Nicole Borromeo <nicole.borromeo@akredistrict.org> wrote:

I also want to reiterate my December board meeting observation, that this could take 15 minutes to clear up :-)

Sent from my iPhone

On Mar 28, 2022, at 1:56 PM, Peter Torkelson <Peter.Torkelson@akredistrict.org> wrote:

Hi Nicole -- my inbox exploded this morning with folks asking us to move the Apr 2 meeting back to allow attendance at Rep Young's funeral. Would 2pm work?

In terms of meeting earlier this week, I do not believe it will be feasible as we have members traveling Thurs and Friday and need to allow the superior court a little time to pass the ball back to our court.

P.

From: Nicole Borromeo <nicole.borromeo@akredistrict.org>

Sent: Monday, March 28, 2022 8:29 AM

To: Peter Torkelson <Peter.Torkelson@akredistrict.org>

Cc: John Binkley <john.binkley@akredistrict.org>; Melanie Bahnke <melanie.bahnke@akredistrict.org>; Budd Simpson <budd.simpson@akredistrict.org>; Bethany Marcum <bethany.marcum@akredistrict.org>; Singer, Matthew <MSinger@schwabe.com>

Subject: Re: Board Packet for Apr 2 @ 10am

Thanks, Peter. I appreciate you sending this.

I'd like to suggest an alternative path to our meeting. Since we have the Supreme Court decision, and the Superior Court will likely act swiftly in remanding the work to the Board, **I think we should notice a public meeting as early as tomorrow — and every day after — so we can meet as soon as possible.**

They just announced the public service for Congressman Young on Sunday. This is another reason that I do not favor meeting on this date.

I know you said that there was a procedural snafu, that warranted us meeting later. However, we expected the decision on April 1 and had a meeting set up for April 2.

With the exception of 9:00 AM to 10:30 AM on Thursday, I can clear everything else on my calendar.

Best,

Exc. 0803

ARB2-500117

Simpson Texts

12:04 PM100%

JB
John >

Mon, Mar 28, 10:49 AM

Can I call you later?

Yes any time.

Peter is calling you now and I will try a little later. Thanks

Mon, Mar 28, 1:10 PM

Any time is still ok for me.

Sorry, Budd.
On another call now.
Will call as soon as I can.
Thanks

Wed, Apr 6, 7:09 PM

Happened to see this.

12:05 PM100%

JB
John >

2022 Proposed Pairings: Option 1

'Bahnke map' is identical map Sen. Tom Begich texted to Nicole Borrromeo in November
alaskalandmine.com

Hmm.

Magical coincidence?

12:08 PM100%

JB
John >

Of course. Ask Peter to send you the 3B map that I asked for this afternoon. I think it is more complete and informative.

Ok. Thanks

Wed, Apr 13, 12:35 PM

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

12:09 PM100%

JB
John >

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

Is Chugiak more properly 23 or 24?

I mean 22 or 24.

Read 4/13/22

It is in 24. Also Peters Creek and Eklutna are in 24.

12:12 PM99%

BM
Bethany >

Thu, Dec 2, 4:50 AM

Sent

Mon, Dec 6, 10:31 AM

You are joining this meeting now, right?

Fri, Apr 8, 9:56 AM

Maybe try restarting?

Mon, Apr 11, 2:37 PM

Hi Budd, I hope your travels went well. Can you give me a call when you have a moment? Thank you

12:11 PM99%

NB
Nicole >

Wed, Feb 16, 4:35 PM

Hi, Budd. I'm wondering if you have time for a 10 minute call later today? Thanks for considering.

—nb

Tue, Apr 12, 9:31 AM

Good morning. Are you coming up for the hearings this week?

Tue, Apr 12, 12:34 PM

Hi Nicole. I'm going to Zoom for these.

Delivered

12:37 PM93%

PS
Paulette >

Wed, Apr 13, 1:47 PM

Good job

How long did I go on that?

Kinda long
But you made up for all the time you kept quiet

John doing well

Is Matt pushing something now?

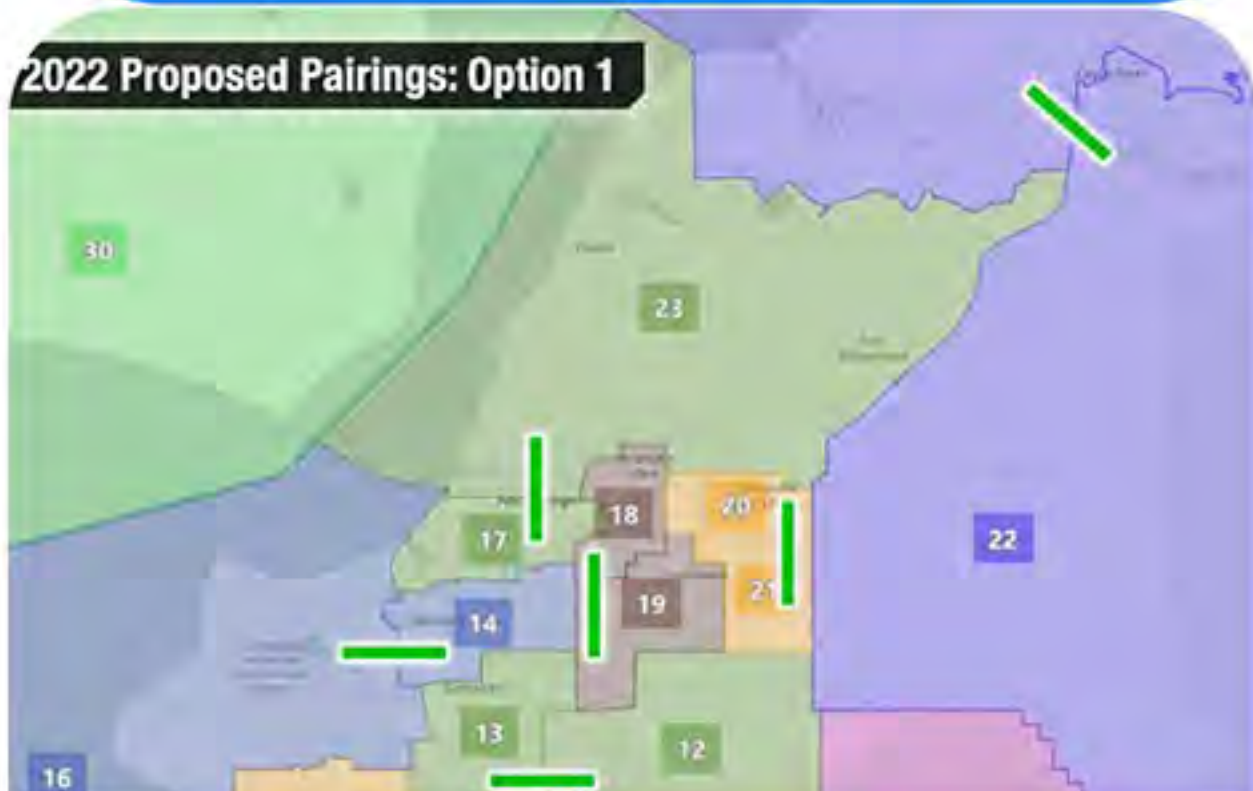
I don't think so. Bethany doing well too.

To: Budd Simpson

Sorry, Budd.
On another call now.
Will call as soon as I
can. Thanks

Wed, Apr 6, 7:09 PM

Happened to see this.



2022 Proposed Pairings: Option 1

30, 23, 17, 14, 13, 12, 16, 18, 19, 20, 21, 22

iMessage

App Store, Apple Pay, Google Fi, and other app icons are visible at the bottom of the screen.

A screenshot of an iMessage conversation on a smartphone. The status bar at the top shows the time 4:51, LTE signal, and battery level. The message header says "New iMessage" with a "Cancel" button. The recipient is "Budd Simpson". The conversation shows three messages: a blue bubble from Budd Simpson saying "The Mountains and park to the east are the Chugach mountains", a thumbs up emoji, a grey bubble from the user asking "Is Chugiak more properly 23 or 24?", and another grey bubble from the user saying "I mean 22 or 24.". A partially visible blue bubble at the bottom says "It is in 24. Also Peters Creek and Eklutna are". The bottom of the screen shows the iMessage input area with a camera icon, an App Store icon, the text "iMessage", and a voice recording icon. Below this is the dock with icons for Photos, App Store, Apple Pay, GIFs, Messages, FaceTime, and Safari.

To: Budd Simpson

2022 Proposal 2021 Pairing

**'Bahnke map' is identical map Sen. Tom Begich
texted to Nicole
Borromeo in November**
alaskalandmine.com

Hmm.

Magical coincidence?

Of course. Ask Peter
to send you the 3B
map that I asked for

iMessage

App Store App Store Apple Pay GIF App Store App Store App Store

A screenshot of an iMessage conversation on a smartphone. At the top, the status bar shows the time 4:51, LTE signal, and battery level. The message header says "New iMessage" with a "Cancel" button. The recipient is "Budd Simpson". The first message, in a blue bubble, says "tains". The second message, in a grey bubble, is a thumbs-up emoji. The third message, in a grey bubble, asks "Is Chugiak more properly 23 or 24?". The fourth message, in a grey bubble, replies "I mean 22 or 24.". The fifth message, in a blue bubble, says "It is in 24. Also Peters Creek and Eklutna are in 24.". Below the last message, it says "Delivered". At the bottom is the iMessage input area with a camera icon, an app store icon, a text input field containing "iMessage", and a voice recording icon. The dock at the very bottom shows icons for the App Store, Apple Pay, GIFs, Photos, Camera, and a red search icon.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: March 31, 2022, 11:52 am

First Name: **Zack**

Last Name: **Fields**

Group Affiliation, if applicable: **Self**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern: **Remand for Senate Pairings**

Public Comment: **Dear Redistricting Board Members,**

Thanks for reopening public comments on Senate pairings following the Supreme Court decision. As we approach elections, I think it is in the public interest to finalize pairings consistent with the Court ruling so that voters can understand the legislative districts in which they'll be voting in the upcoming state primary and general elections. Since Anchorage has an even number of House districts, and since the Supreme Court ruling effectively requires pairing the two Eagle River House seats into a Senate seat, the only remaining question is how to pair the remaining even number of Anchorage House seats. Fortunately, existing Board pairings in South Anchorage and West Anchorage neatly pair with proposed Bahnke pairings in East Anchorage and Downtown to complete the map. These pairings would be:

17+23 (Downtown, South Addition, Govt Hill, JBER)

14+13 (Midtown)

16+15 (West Anchorage)

18+19 (East Anchorage)

20+21 (East Anchorage)

11+12 (Abbott Loop/Lower Hillside)

9+10 (Ocean View/South Anchorage)

Conveniently, these pairings are the most logical in terms of compactness and socioeconomic integration of neighborhoods. These boundaries also respect underlying Constitutional guidance with respect to watersheds and natural features.

As someone who represents Downtown and surrounding neighborhoods in Anchorage, I certainly see how these pairings are the most logical for neighborhoods I represent.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: March 31, 2022, 12:44 pm

First Name: **Brandon**

Last Name: **Calcaterra**

Group Affiliation, if applicable: **Self**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Senate seat pairings**

Public Comment: **I live in Eagle River and first want to state my support for Eagle River's two House districts being unified in a Senate district as required by the recent Supreme Court ruling. Once the Eagle River House seats are paired, there is an even number of other House districts within Anchorage, so it is not difficult to pair these House districts into logical Senate districts. For example, the four East Anchorage House seats should break down into two Senate seats, and Downtown/Government Hill pairs into a Senate seat. This configuration leaves the other proposed Board pairings further south unchanged. Adopting this slightly revised map that fixes Eagle River and keeps East Anchorage seats together seems to meet Court requirements and would allow voters clarity on where they'll be voting in elections that are coming up soon.**

From: "Melanie Bahnke" <melanie.bahnke@akredistrict.org>

To: "Nicole Borromeo" <nicole.borromeo@akredistrict.org>

Cc: "John Binkley" <john@riverboatdiscovery.com>, "Singer, Matthew" <MSinger@schwabe.com>, "Bethany Marcum" <bethany.marcum@akredistrict.org>, "Budd Simpson" <budd.simpson@akredistrict.org>, "John Binkley" <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@schwabe.com>, "Peter Torkelson" <Peter.Torkelson@akredistrict.org>

Subject: Re: Thought for procedure going forward--Privileged Communication [IWOV-pdx.FID4635476]

Date: Fri, 01 Apr 2022 21:14:21 -0000

Importance: Normal

I don't see how we are going to get through tomorrow's agenda AND discuss process going forward in a 2 hour time span on Monday. I ask that the board respect my schedule as much as we have Budd's as well as the others who had conflicts that meant we couldn't meet sooner than tomorrow. The public's trust in us is already bruised. If we cancel tomorrow's meeting these emails between us all will likely get FOIA-ed, and nothing in them is privileged. The public will be curious as to why we are delaying when we've had a week to sit on the ruling. Let's meet tomorrow and follow our agenda and I'm willing to wait until Monday to discuss process when we are in the meeting.

On Apr 1, 2022, at 12:46 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

Peter- has any member of the public expressed concerns with the agendas for all the meetings we have noticed that show our proposed actions? I'm not understanding why we are even contemplating these last minute changes?

On Apr 1, 2022, at 12:42 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

There is nothing on tomorrow's agenda that indicated we would discuss the plan going forward. We can do that Monday morning with all members present. See below the agenda. Let's hold our meeting as planned please and discuss the plan going forward on Monday.

<https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=133407>

Sent from my iPhone

On Apr 1, 2022, at 12:37 PM, Nicole Borromeo <nicole.borromeo@akredistrict.org> wrote:

With all due respect, John, you don't have the power to cancel a meeting without checking with the rest of the Board.

I insist that this meeting proceeds as scheduled, since no one wanted to move it any sooner.

I'm going to be there at 2:00PM ready to gavel in. I hope that the rest of the Board is ready to proceed, with the exception of Budd, who was excused along time ago for this 'scheduling' meeting.

Exc. 0808

CONFIDENTIAL

ARB2-500052

Matthew Singer

Shareholder

D: 907-339-7129

C: 907-830-0790

msinger@schwabe.com

SCHWABE, WILLIAMSON & WYATT

CLIENT SHOWCASE | INNOVATING FOR GOOD

From: Nicole Borromeo <nicole.borromeo@akredistrict.org>

Sent: Friday, April 1, 2022 10:00 AM

To: Melanie Bahnke <melanie.bahnke@akredistrict.org>

Cc: Singer, Matthew <MSinger@SCHWABE.com>; Bethany Marcum <bethany.marcum@akredistrict.org>; Budd Simpson <budd.simpson@akredistrict.org>; John Binkley <john.binkley@akredistrict.org>; Baxter, Lee C. <LBaxter@SCHWABE.com>; Peter Torkelson <Peter.Torkelson@akredistrict.org>

Subject: Re: Thought for procedure going forward--Privileged Communication

I completely agree with Melanie. Let's wrap this up already. There's absolutely no reason to delay. This isn't a good look for the Board.

99.9% of the public testimony we heard on the Senate pairings told us to put Eagle River together and Muldoon together. It's highly unlikely that we're going to receive testimony outside of this limited issue.

And before we go down the 'don't put this or that in email' all of what I'm saying is public record.

Alaska deserves better,
Nicole

Sent from my iPhone

On Apr 1, 2022, at 8:46 AM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

This could also smack if delay tactics. I've already seen on social media people predicting that the board majority will try to delay as much as possible to force an ejection under the current proclamation. Please advise as to how this will impact the upcoming elections. Also, for any new senate pairing maps we consider, I would like our VRA expert to weigh in on the record (not in executive session) this time before we vote. Apparently that would have been prudent the last time. Please respond to me about my request. I am going into this with my eyes wide open this time. I do not want this to drag on. I would hope that the majority also is ready to put this behind us and move on with a legal and fair final map. These fixes should really only take 15 minutes. I predict testimony will be overwhelmingly as it was in November. Eagle River with Eagle River and Muldoon with Muldoon. The nap I presented publically has broad support. I doubt anything will change. Please let's stick to the schedule.

On Apr 1, 2022, at 8:36 AM, Singer, Matthew <MSinger@schwabe.com> wrote:

Exc. 0809

CONFIDENTIAL

ARB2-500073

From: John Binkley <john@riverboatdiscovery.com>

To: Melanie Bahnke <melanie.bahnke@akredistrict.org>

Cc: "Singer, Matthew" <MSinger@schwabe.com>, Nicole Borromeo <nicole.borromeo@akredistrict.org>, Bethany Marcum <bethany.marcum@akredistrict.org>, Budd Simpson <budd.simpson@akredistrict.org>, John Binkley <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@schwabe.com>, Peter Torkelson <Peter.Torkelson@akredistrict.org>

Subject: Re: Thought for procedure going forward--Privileged Communication [IWOV-pdx.FID4635476]

Date: Fri, 1 Apr 2022 20:27:36 +0000

Importance: Normal

I agree with Melanie.

The process going forward should be debated in public with all members participating.

Since Budd is not able to be at the meeting tomorrow, I am canceling the Saturday meeting.

We will all be present on Monday and Budd will be able to present his proposal for the process going forward and we can debate that and any other ideas members have.

Enjoy the weekend and we will look forward to seeing everyone at 8:00 Monday morning.

Thanks. John.

On Apr 1, 2022, at 2:12 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

If we don't have consensus on a process going forward we need to debate this in the public eye on Saturday. The public deserves to observe our deliberations on the record. Let's comply with the Open Meetings Act and the court orders. No more deliberations behind closed doors.

On Apr 1, 2022, at 9:54 AM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

We have publicly noticed our meetings and agendas for those meetings with no negative feedback on our timelines that I am aware of. I insist that we follow our own planned timelines to abide by the court's orders. Changing things at the last minute is going to confuse the public and delay the final proclamation. We owe our state better. We have 3 meetings planned with public testimony available at all 3 meetings and the portal is open for public testimony as of yesterday. That should be sufficient.

On Apr 1, 2022, at 9:35 AM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:



Exc. 0810

CONFIDENTIAL

ARB2-500946

From: "E. Budd Simpson" <bsimpson@stsl.com>

To: Peter Torkelson <Peter.Torkelson@akredistrict.org>, "Singer, Matthew" <MSinger@SCHWABE.com>

Cc: John Binkley <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@SCHWABE.com>

Subject: RE: Thought for procedure going forward--Privileged Communication

Date: Fri, 1 Apr 2022 00:24:10 +0000

Importance: Normal

I thought part of our problem was that we didn't have a plan circulated in advance that the public could comment on, we just had lots of testimony then popped out a plan.

I don't want to be pressed to put out one plan and take testimony on it by Monday. That's just me. If everyone else want to accelerate, so be it. And if someone does have one they want to put on the table that soon, I'm fine with that, as long as we don't have to vote on it right away. My vote is that we have almost till the 15th.

E. Budd Simpson

Simpson Tillinghast Sheehan, P.C.

One Sealaska Plaza, Suite 300

Juneau, AK 99801

(907) 586-1400

(907) 586-3065 (Fax)

www.stsl.com

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From: Peter Torkelson <Peter.Torkelson@akredistrict.org>

Sent: Thursday, March 31, 2022 5:04 PM

To: E. Budd Simpson <bsimpson@stsl.com>; Singer, Matthew <MSinger@SCHWABE.com>

Cc: John Binkley <john.binkley@akredistrict.org>; Baxter, Lee C. <LBaxter@SCHWABE.com>

Subject: Re: Thought for procedure going forward--Privileged Communication

Hi Budd – we just noticed our meetings for Apr 4, 5 and 6. Not sure we'll use those all, but the schedule they imply is that we would be pretty much wrapping up by Apr 6 (agenda says "Possible Adoption of a Proposed Plan Revision")

Of course, we aren't stuck with anything and can easily postpone/cancel any meeting and notice others. Just letting you know that the sense I have so far in talking with members is a desire to wrap it up well before April

Exc. 0811

CONFIDENTIAL

ARB2-501465

15, and next week if possible, and ideally by mid week – after having multiple public testimony sessions (2 on Sat, 2 on Monday, at least 1 on Tuesday and Wednesday).

I'll let Matt chime in on your weightier concept (such as publishing suggestions that come from the public, waiting and then taking public testimony on them).

P.

From: E. Budd Simpson <bsimpson@stsl.com>

Sent: Thursday, March 31, 2022 3:53 PM

To: Singer, Matthew <MSinger@SCHWABE.com>

Cc: John Binkley <john.binkley@akredistrict.org>; Peter Torkelson <Peter.Torkelson@akredistrict.org>; Baxter, Lee C. <LBaxter@SCHWABE.com>

Subject: Thought for procedure going forward--Privileged Communication

Matt,

Since I won't be able to attend the ARB meeting on Saturday, I just want to share a few thoughts on how we could move forward. Given the court rulings, I believe we should continue to focus on process, and in particular make sure we dedicate some time and space for public input (testimony and written). I doubt that the Cantwell revision will be difficult or controversial, so our main task will be to de-couple Senate District K and make whatever revisions necessarily flow from that. I would like see a meaningful opportunity for the public to submit suggestions. I imagine some members have one or more ideas in mind already, but further input should be welcomed. I suggest that after the planning meeting Saturday we set a deadline a few days after that by which anyone—member or public—can submit proposed pairing solutions. Then we publish those for public comment and leave that period open for a few days, concluding the comment period with a hearing where we take public testimony. We as a board should have at least a couple of days after that to digest the proposals and comments, then meet to have an open discussion and make a decision. The last time around, I think part of our problem was being rushed toward the end product. Here and now, we have a more focused decision and, while the time limit is finite, April 15 is the deadline set by the court and everything I suggested above can be accomplished in that time, with an organized procedure, and without undue haste. If appropriate, please feel free to share this with the other members. It doesn't necessarily need to be confidential, but I wanted to run it through counsel to be sure it's OK before circulating.

Budd

E. Budd Simpson

Simpson Tillinghast Sheehan, P.C.

One Sealaska Plaza, Suite 300

Juneau, AK 99801

(907) 586-1400

(907) 586-3065 (Fax)

Exc. 0812

CONFIDENTIAL

ARB2-501466

Binkley - Marcum Texts

4:53

LTE

New Message

Cancel

To: Bethany Marcum

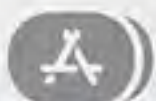
Fri, Apr 1, 6:59 AM

Good morning,
Bethany.
Would you have time
for a call?

In 5 minutes?

Great. Just call when
it's good for you.
Thanks.

Fri, Apr 8, 7:42 AM



Text Message



Text Message



4:53

LTE

New Message

Cancel

To: Bethany Marcum

Hi John, wanted to ask
you about something
when you have a mo-
ment. Thx

Ok. I have an 8:00 call.

Okay, feel free to call
when you are done

Done with my call.

Wed, Apr 20, 10:04 AM

Binkley - Simpson Texts

4:50

LTE

New iMessage

Cancel

To: Budd Simpson

Mon, Mar 28, 10:49 AM

Can I call you later?

Yes any time.

Peter is calling you now and I will try a little later. Thanks

Mon, Mar 28, 1:10 PM

Any time is still ok for me.

iMessage

4:51

LTE

New iMessage

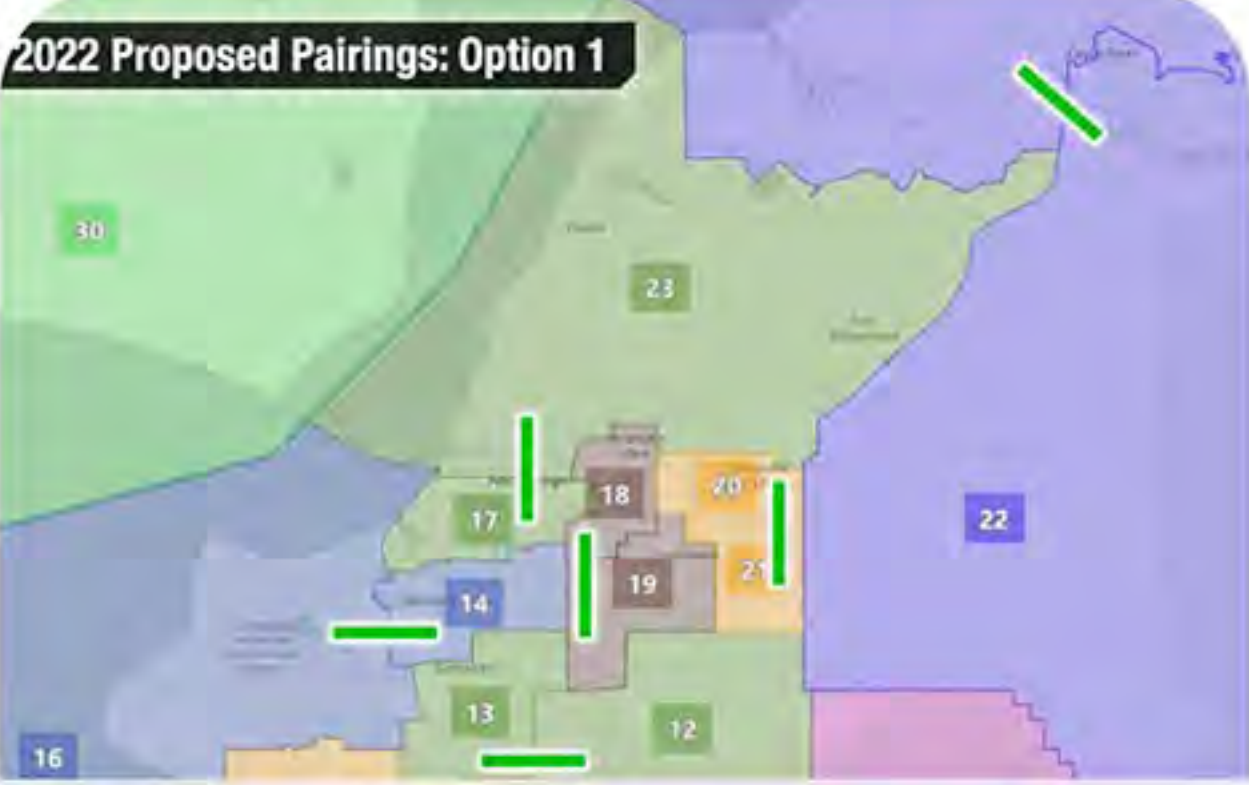
Cancel

To: Budd Simpson

Sorry, Budd.
On another call now.
Will call as soon as I can. Thanks

Wed, Apr 6, 7:09 PM

Happened to see this.



iMessage

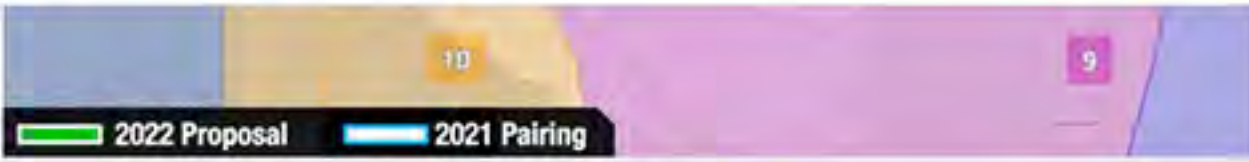
4:51

LTE

New iMessage

Cancel

To: Budd Simpson



'Bahnke map' is identical map Sen. Tom Begich texted to Nicole Borromeo in November
alaskalandmine.com

Hmm.

Magical coincidence?

Of course. Ask Peter to send you the 3B map that I asked for

iMessage

4:51

LTE

New iMessage

Cancel

To: Budd Simpson

map that I asked for this afternoon. I think it is more complete and informative.

Ok. Thanks

Wed, Apr 13, 12:35 PM

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and

iMessage

4:51

LTE

New iMessage

Cancel

To: Budd Simpson

The Mountains and park to the east are the Chugach mountains

Is Chugiak more properly 23 or 24?

I mean 22 or 24.

It is in 24. Also Peters Creek and Eklutna are

iMessage

4:51

LTE

New iMessage

Cancel

To: Budd Simpson

tains

Is Chugiak more properly 23 or 24?

I mean 22 or 24.

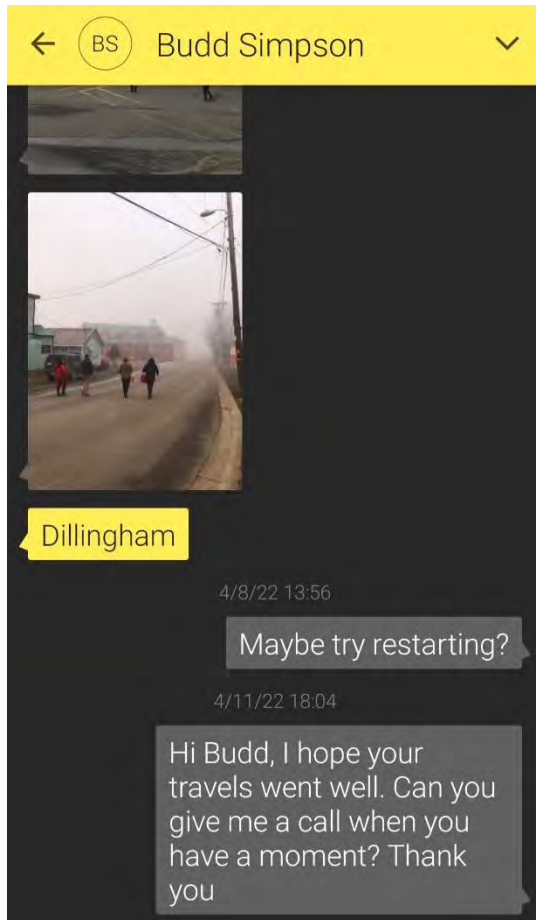
It is in 24. Also Peters Creek and Eklutna are in 24.

Delivered

iMessage

Marcum board member text messages March 25 – April 13

No search terms; all inclusive



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15 **Members Present:**

16 John Binkley, Chair of the Board

17 Melanie Bahnke, Board Member

18 Bethany Marcum, Board Member

19 Nicole Borromeo, Board Member

20 Peter Torkelson, Executive Director

21 Matt Singer, Legal Counsel

22

23

24

25

**CERTIFIED
TRANSCRIPT**

ALASKA REDISTRICTING BOARD

BOARD MEETING

APRIL 2, 2022

1 In the '80s and '90s, we had Rick Halford
2 and Randy Phillips. Randy Phillips represented
3 Muldoon and Eagle River, and it worked fine. He did
4 a great job working for the Muldooners. He attended
5 community council meetings. He supported the schools
6 and the businesses and the people of East Anchorage.

7 In 2000 or so we were paired with the
8 Hillside all the way to Hope, and it was a
9 geographical nightmare. We had Con Bunde and Cathy
10 Giessel both try to represent Eagle River, but never
11 really connected with what was important to the
12 community out here.

13 Recently we've gone back to a senator for
14 Eagle River and one for Chugiak, and there's been no
15 complaints. Eagle River is adjacent to JBER, and
16 many residents of Chugiak/Eagle River are military,
17 so that makes sense for us, as well.

18 I appreciate your time. Thank you.

19 MEMBER BORROMEIO: Thank you, Susan.

20 And that concludes our public testimony. We
21 appreciate everyone in the room for their patience,
22 and those online, too, especially as we dealt with
23 some early technological -- technologic -- I don't
24 know. Whatever. It was a mess.

25 But moving on with the agenda here, we are

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 4, 2022, 4:16 pm

First Name: **Belinda-Jane**

Last Name: **MacIntire**

Group Affiliation, if applicable: **Government Hill Community Council Member**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **currently planned Senate District Boundaries**

Public Comment: **I urge you to please revise the currently planned Senate district boundaries that combine Downtown and Government Hill with Chugiak, Eagle River and Eklutna. The currently planned boundaries are an example of partisan gerrymandering, and does not comply with the Alaska Constitutional guidelines of "compactness and contiguity", and "socioeconomic integration".**

People in Downtown and Government Hill would have to drive 20 or more miles to Chugiak, Eagle River and Eklutna! That is neither compact nor contiguous. Residents cannot drive or even walk through JBER to get to the rest of the district.

People in Downtown and Government Hill have drastically different properties, values and lifestyles, and have no socioeconomic factors in common.

I urge you to please pair House District 23 to House District 17, as the only pairing that would meet the Constitutional Guidelines.

Thank you so much for doing the right thing.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 4, 2022, 9:42 pm

First Name: **William**. Last Name: **Sola**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Senate redistricting**

Public Comment: **Please end the partisan gerrymandering proposal that is attempting to link a small amount of Downtown Anchorage, and all of Government Hill to a senate district that primarily represents Chugiak, Eagle River, and Eklutna. This is unfair and will cause our neighborhood to be misrepresented, or vastly underrepresented.**

Government Hill is much like South Addition, Fairview, Mountain View and even Muldoon; a quasi-urban area with a lifestyle and accessibility that are directly linked with each of these areas.

Under the current ill-advised proposal, we would have to drive through three other house districts to connect with another populated section of our district at the far edge of Muldoon and then 25 miles to the next population in our district. The people of the northern side of Eagle River, Chugiak, Eklutna and beyond have distinctly different lifestyles and resource wants and needs. Several times in the past they have actually tried to secede from the Municipality of Anchorage.

Government Hill is moments away from the very epicenter of downtown Anchorage, while the "far north neighborhoods" are as far away as possible, there are very little true commonalities between us and them, with regards to issues such as planning and zoning, infrastructure, and even typical residential lot sizes.

Government Hill and Downtown each share an enormous amount of frontage with the industrial zone: heavy commercial, railroad yard, port of Alaska, and oil tank district that basically split us apart. Still, we face similar issues when dealing with that area, while the "northern neighborhoods" virtually have no interest in what goes on in the downtown area.

To put us in the same group with Chugiak, et. al., would make Government Hill nearly voiceless and not involved with any issues that would affect the Hill and its proximity, while the proposed northern communities would have no interest in our concerns. Likewise, we would have little in common with them.

Please support the fair pairing is House District 23 to House District 17.

Regards, Will Sola

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**CERTIFIED
TRANSCRIPT**

ALASKA REDISTRICTING BOARD MEETING

TUESDAY, APRIL 5, 2022

VIA VIDEOCONFERENCE

Transcript of Proceedings

- Participants:**
- John Binkley, Chairman**
 - Melanie Bahnke, Board Member**
 - Bethany Marcum, Board Member**
 - Budd Simpson, Board Member**
 - Nicole Borromeo, Board Member**
 - Peter Torkelson, Executive Director**

1 We'll move on to -- let's see. I'm just looking
2 at the time stamps here. Gretchen Stoddard in Anchorage.
3 And after that we'll go to Brian Hope (ph), Robin
4 O'Donoghue, and then we'll go back online.

5 MS. STODDARD: So please let me know if I'm
6 talking too loudly or if you can't hear me. My name is
7 Gretchen Stoddard. I live in what's soon to be
8 District 9, South Anchorage, the set of subdivisions
9 Turnagain View, Turnagain View Estates, Turnagain View
10 Heritage Estates, or whatever it is. I live in a
11 subdivision on the Lower hillside.

12 I haven't really been involved in this state
13 process, but I was following the municipal process
14 closely. And testified -- I'm only testifying for myself,
15 even though I volunteer in some areas. I realize you have
16 a court case and hopefully those problems can be solved.
17 I don't understand all that. I live in District 9. I
18 understand District 9 and 10 going together. I can stand
19 at Bell's Nursery, there's a crosswalk going over the
20 Seward Highway.

21 9, 10, they link together well. We share Rabbit
22 Creek Elementary. We share Goldenview Middle School. We
23 share South High. I just want to say if we're going to be
24 put with somebody else, I -- I don't think that this has
25 already been decided and gone out for public testimony and

Municipality of Anchorage
Assembly Member Christopher Constant

christopher.constant@anchorageak.gov

4/5/2022

To: Alaska Redistricting Commission
From: Assembly Member Christopher Constant, Reapportionment Committee Chair
Re: Public Comments to Municipal Reapportionment Process

Dear Commissioners:

I am writing in follow up to my testimony at the public hearing held on April 2, 2022. In this communication I will begin where I ended, expressing my gratitude for your hard work in generating a map that was found for the very most part to be constitutional and well crafted. I will expand on my concern with one senate pairing. I will begin concluding by describing the nature of the public comments received by the Anchorage Assembly during the 2022 Reapportionment process that has just concluded. And finally, I will share with you a table of public comments from individuals as well as community councils submitted to the public record.

First, the house maps you adopted in your final plan have proven to be workable for the vast majority of the 40 house districts. Having chaired the process for the Municipality of Anchorage, a subdivision of the State of Alaska, I can commiserate on how challenging it is to set a proportional map that respects historic boundaries, communities of interest, and maintains contiguity and compactness. Ours was a substantially smaller scale project and it took us scores of hours. Collectively hundreds. Thank you for your diligence.

I still maintain substantial concerns about the senate pairing of House Districts 23 and 24. In particular the stranding of a tiny population of Anchorage voters in a district centered 20 and 30 miles away separated by mountains and a secure military base. They will not be represented, no matter what gilded promises are made by political actors attempting to sustain this gerrymander. The harm, for the most part, is undone by simply pairing House District 23 with House District 17.

You have the power to right this.

I recognize the interest in opening up the map and shifting pairings across Anchorage. I believe the Bahnke map is the fairest approach. I think the board is bounded by two borders in its decision making. Either adopt the map previously presented or act narrowly to update only the unconstitutional pairing and the minimum number of pairings to correct the infirmity.

I believe restraint is in order here. That Superior Court Judge Matthews maintains jurisdiction over this matter should be a caution to all parties. It is a mandate to exercise restraint in the final stage of this process, exercising only the minimum level of action necessary to achieve the constitutional goal. This likely means adopting the principle of maximum preservation of all district pairings ruled constitutional, except for those that must be repaired to accommodate the mandatory change as a result of the court's finding that the adopted East Anchorage/Eagle River senate district is unconstitutional.

Municipality of Anchorage
Assembly Member Christopher Constant

christopher.constant@anchorageak.gov

*I ask **you** to be the hero by pairing House Districts 17 and 23 into a single senate district to protect two small neighborhoods whose interests are threatened to be subsumed into a larger district with completely different needs.*

Now, I will share a bit about the Anchorage Reapportionment Process. The Municipality is a subdivision of the State of Alaska and organized as a First Class Municipality exercising the maximum level of self-government allowed under the State Constitution. As such, the Municipality began its Charter required reapportionment mere days after the publication by this body of the State Final Plan map on November 10, 2021. We ran a robust public process with more than 20 opportunities for the public to be heard. We also had a public comment portal and received emails in our regular method of receiving public comments. We hired a contractor who proposed several maps and opened the map making process up to the public, from whom we receive several viable maps. In fact, the final adopted map was submitted by a member of the public.

One of the maps drafted by the contractors and an additional map submitted by a member of the public paired Chugiak Eagle River with Hillside in South Anchorage. That pairing was a lightning rod causing scores and scores of comments in opposition from the public. The comments came in through all channels. Phone calls to members, emails through our regular email system. Comments posted to the portal, and substantial in person testimony in opposition. The opposition was overwhelming that the pairing of Eagle River and Hillside is inappropriate and shouldn't be promulgated. *The Assembly listened.*

It is my hope the Alaska Redistricting Board will incorporate the comments of members of the public and community councils duly submitted to a subdivision of the State under a substantially similar and coordinated process. By including a sample of comments received by email, a near complete table of comments submitted via the portal, and the Community Council resolutions passed relating to the pairing of Eagle River and Hillside, the Redistricting Board will have substantive record of concerns and overwhelming oppositions from the public to an irrational pairing of Chugiak, Eagle River and South Anchorage Hillside. Comments opposing the pairing are highlighted in yellow.

Now, I will conclude where I started. Having walked through a similar process recently, I thank you for the diligence exhibited by members of the Board in crafting a redistricting plan map that meets the needs of most Alaskans. Please complete this process and let's get on with implementation of your new districts.

Respectfully,



Christopher Constant, Vice Chair
Anchorage Assembly, District 1
(907)787-9989

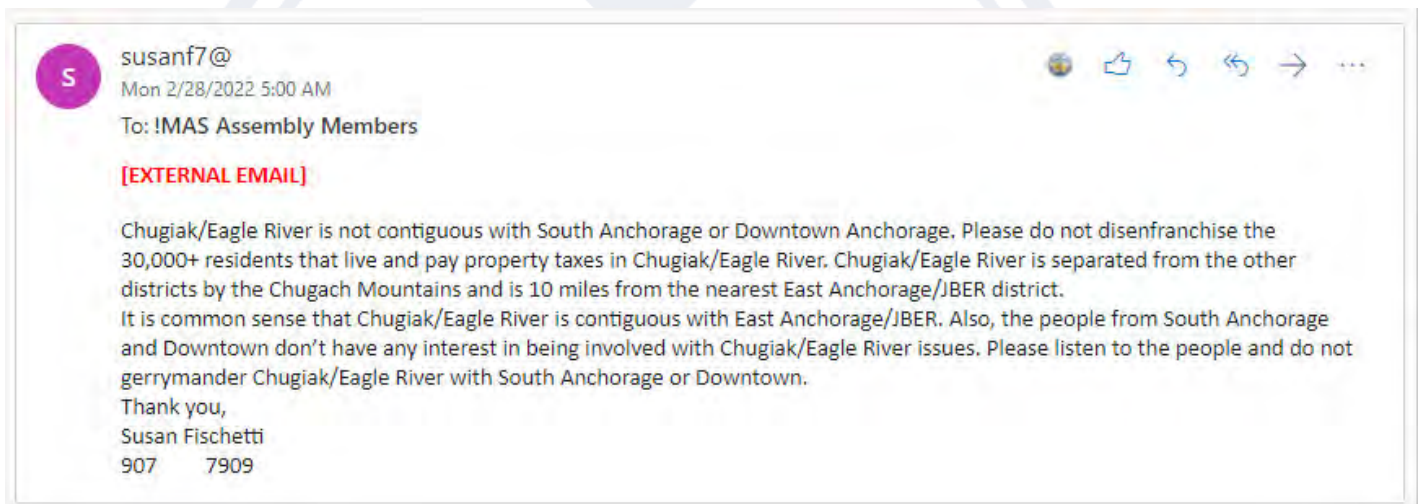
Municipality of Anchorage
Assembly Member Christopher Constant

christopher.constant@anchorageak.gov

Appendices

1. Sample email public comment via email
2. Community Council resolutions opposing Eagle River/Hillside Pairings
3. Select table of comments received through Assembly Reapportionment Comment Table

Appendix 1.: Example of public comments via email:



Appendix 2 and 3 follow.

Resolution 2022-01

Northeast Community Council (NECC)

January 20, 2022

Assembly Reapportionment

WHEREAS, the Northeast Community Council (NECC) is the Community Council that is the voice of the people of Northeast Anchorage and includes the following boundaries:



WHEREAS, according to Census data, Northeast Anchorage has one of the most ethnically and racially diverse populations in the United States;

WHEREAS, according to Census data, the Northeast Community Council area has a population of 29,266;

WHEREAS, The target population per district is 48,541. The total deviation in actual population to target population must be less than 10% (federal law), and ideally less than 5%.

WHEREAS, Northeast Anchorage is a distinct and socioeconomically integrated area with strong neighborhood identities very different than that of Eagle River;

WHEREAS, Northeast Anchorage is home to many active-duty service members and Veterans who frequent the businesses and services provided along Muldoon Rd and near the Joint Base Elmendorf Richardson (JBER) Muldoon Rd. gate;

WHEREAS, in the past, portions of Northeast Anchorage have been included within the Eagle River district that is not socioeconomically similar and have very different legislative interests;

NOW, THEREFORE BE IT RESOLVED, the NECC respectfully asks the Anchorage Assembly to:

1. Protect our neighborhoods and maintain our neighborhood ties by including the entire NECC boundaries within one Assembly District;
2. Include Bartlett High School in our District to keep it connected to the families it serves.


Date: January 20, 2022

Votes for: 10

Votes Against: 0

Abstain: 1

Motion Passes / **Motion Does Not Pass**

President:  Secretary: 

T'Shalla Baker

Rachel Boudreau

HALO Reapportionment Resolution
Resolution to Defend the Representation of the Hillside

WHEREAS, the HOME AND LANDOWNERS ORGANIZATION is dedicated to the advancement of issues related to living in the Hillside area of the Municipality of Anchorage. We promote the Anchorage Hillside rural way of life in a community of low density so that the character of the community experience remains; and

WHEREAS, our community is bound by the Hillside District Plan and represented by five Community Councils; and

WHEREAS, our community bond relies on our shared community experience and location. Lot size, drinking water source, nor street maintenance source are not an important factor in our community definition. Our community is linked by lifestyle, shared location, and homestead history; and

WHEREAS, the Hillside has no community connection i.e., schools, churches, parks, shared stores, coffee shops, or community activities with Eagle River; and this connection between Hillside and Eagle River is only similar to any other part of the Municipality; and

WHEREAS, the population of Eagle River far outweighs the population on the Hillside proposed to move and therefore would divide our community and not represent the residents of the Hillside; and

WHEREAS, the Anchorage Assembly must conduct Reapportionment after declaring itself malapportioned November 23, 2021, and has six months to reapportion itself and the Anchorage Assembly's Reapportionment Committee has presented ten maps for review; and

WHEREAS, Reapportionment must consider 1) Districts must be compact, contiguous and a relatively integrated socioeconomic area, 2) The principle of equal protection and "one person, one vote" must be maintained; and

WHEREAS, five of the maps remove portions of the Hillside and joins them with District 2 (Eagle River) which would remove a compact and contiguous district, and does not maintain 'one person one vote'; and

WHEREAS HALO does not support maps that divides our community citing lot size as a division in our community. We do not support bringing all or portions of Hillside into District 2; and

NOW THEREFORE be it resolved that HALO urges the Assembly to support our community identity and allow the Hillside to stay separate from Eagle River in our representation urging the support of maps that keep the Hillside in District 6.

NOW THEREFORE be it resolved that HALO supports maps that keep the Hillside Districts together in one assembly district. Maps presented which keep the lower and upper Hillside together represent our community and forms a compact, contiguous, and socioeconomic integrated district.

Resolved this 3rd day of February 2022 by unanimous vote

Katie Nolan
President Home and Landowners Organization

HILLSIDE COMMUNITY COUNCIL
1057 West Fireweed Lane, Suite 100
Anchorage, AK 99503

February 8, 2022

To: Anchorage Assembly
Assembly Reapportionment Committee Members

RE: Reapportionment of the Anchorage Hillside neighborhood

The Hillside Community Council (HCC) Board of Directors appreciates the opportunity to provide input on the process of Municipal Reapportionment. We understand that the Draft Maps are still under consideration and revision; therefore, the HCC is not endorsing a specific map at this time. Our comments in this document are specifically intended to address any Draft Maps that divide the Anchorage Hillside by removing a portion of its residents from District 6 and reapportion them into District 2 (Eagle River).

The Hillside is a cohesive, well-established neighborhood within the city of Anchorage, with many shared connections among its residents, including but not limited to schools, programs, community outreach groups, sports and neighborhood organizations, and more.

We believe that Eagle River is its own separate and unique community within the municipality, with its own specific needs and issues. Additionally, Eagle River has no common community connections with Hillside residents.

We believe that combining an estimated 12,000 Hillside residents with the population of Eagle River will produce a disproportionate district. As a result, the reapportioned Hillside residents would be unfairly underrepresented in the new district, and their Assemblyperson would likely be someone unfamiliar with their neighborhood and community's specific needs.

In addition, representatives from the Boards of HCC, Huffman/O'Malley Community Council, Rabbit Creek Community Council and the Anchorage Home and Landowners Organization (HALO) attended a District 6 Constituents' meeting on February 5th, to discuss reapportionment. All representatives in attendance expressed support for keeping the Hillside neighborhood intact, and opposed grouping a portion of the Hillside residents with Eagle River.

The HCC Board of Directors respectfully requests that the Reapportionment Committee and Anchorage Assembly keep the Hillside's cohesive neighborhood intact, and not approve or recommend a map(s) that combines a portion of the Hillside with Eagle River.

Respectfully submitted,



Carmela Warfield, President
Hillside Community Council Board of Directors

HOCC Reapportionment Resolution
Resolution to Support the South Anchorage and Hillside Community

WHEREAS, the Huffman O'Malley Community Council (HOCC) is dedicated to the advancement of issues related to living in the South Anchorage and Hillside area of the Municipality of Anchorage. We promote the character of our shared community experience and interests; and

WHEREAS, the Hillside is a well-established, cohesive neighborhood whose residents share neighborhood road connections and many common community connections; and

WHEREAS, Hillside is one neighborhood and our community is bound by the Hillside District Plan and represented by five Community Councils; and

WHEREAS, our community bond relies on our shared community experience and location. Neither lot size, drinking water source, or street maintenance source are important factors in our community definition. Our community is linked by lifestyle, shared location, close road access, and homestead history; and

WHEREAS, the Hillside has little community connection i.e., schools, churches, parks, shared stores and coffee shops, or community activities with Eagle River; and this connection between Hillside and Eagle River is only similar to any other part of the Municipality; and

WHEREAS, the population of Eagle River far outweighs the population on the Hillside proposed to move and therefore would divide our community and not represent the residents of the Hillside; and

WHEREAS, the Anchorage Assembly must conduct Reapportionment after declaring itself malapportioned. That declaration was made November 23, 2021, and the deadline is to complete activity within six months to reapportion itself. We do not understand the rush to adopt maps with little time for boundary review. Anchorage Assembly's Reapportionment Committee has presented ten maps for review on February 9th, but these maps may not be the maps under consideration. This process seems rushed; and

WHEREAS, Reapportionment must consider 1) Districts must be compact, contiguous and a relatively integrated socioeconomic area, 2) The principle of equal protection and "one person, one vote" must be maintained.

WHEREAS, five of the maps remove portions of the Hillside and joins them with District 2 (Eagle River) which would remove a compact and contiguous district, does not keep common community interests together, and does not maintain 'one person one vote'; and

WHEREAS HOCC does not support maps that divide our community citing lot size as a division in our community. We do not support bringing all or portions of Hillside into District 2.

NOW THEREFORE be it resolved that HOCC urges the Assembly to support our community identity and allow the Hillside to stay separate from Eagle River in our representation. HOCC supports maps that keep the Hillside in District 6.

NOW THEREFORE be it resolved that HOCC supports reapportioned districts which keep the lower and upper Hillside together forming a district with boundaries similar to the Hillside District Plan and with road access to support community functions and a compact, contiguous, and socioeconomically integrated district.

Resolved this 9th day of February 2022

Graham Spotted
Signature
President, Huffman
Title
O'Malley Community
Council



RABBIT CREEK COMMUNITY COUNCIL (RCCC)

A Forum for Respectful Communication & Community Relations



1057 West Fireweed Lane, Suite 100 / Anchorage, AK 99503

RESOLUTION AND COMMENTS FROM THE RABBIT CREEK COMMUNITY COUNCIL ON THE 2022 ASSEMBLY REAPPORTIONMENT PROCESS

At our February 10, 2022 meeting, the Rabbit Creek Community Council (RCCC) discussed draft maps currently under consideration for the required Assembly Reapportionment process. In doing so, the RCCC reminds the Assembly Reapportionment Committee that: legal requirements compel the Committee to create districts which are "compact and contiguous territory containing as nearly as practicable a relatively integrated socioeconomic area" (Municipality of Anchorage Code of Ordinance, Part I, Article IV, Section 4.01). By a vote of 26 yeas, 3 nays, and 1 abstention, RCCC approved the following resolution:

RESOLUTION

The Rabbit Creek Community Council:

- Affirms that the re-apportionment closely follow the legal requirements to create compact, contiguous, and socioeconomically integrated districts.
- Opposes combination of any portions of the Hillside with Eagle River.
- Emphasizes that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area.
- Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.

JUSTIFICATION

The RCCC strongly opposes any map that would combine the Rabbit Creek and neighboring Hillside areas with Eagle River because these two distinct, separate areas are not integrated through socio-economic interactions, land use patterns, businesses, roads and traffic patterns, or schools. Additionally, these areas are neither compact nor contiguous, thus further failing to meet the requirements of Section 4.01. Travel from the Hillside to Eagle River requires traversing several intervening districts. It is inappropriate to use the large, steep, uninhabited, and in some areas or to some people inaccessible, Chugach State Park as justification to combine Eagle River and Hillside into one Assembly district.

Common issues that distinguish the Hillside from most other parts of the Anchorage Bowl include resident concerns around wildfires and high winds, on-site water and septic systems, Limited Road Service Areas, drainage, water supply and other watershed features on steep slopes. Eagle River has different watersheds, an integrated road service district, its own park district, and facilities that have little or no daily relevance to Hillside residents, including a

Community College, its own branch library, a Wal-Mart, and a central business district. The local roads, trails, and recreation areas we use throughout the Hillside are completely different from the local roads, trails, and recreation areas used by Eagle River residents; the roads we travel to schools and local shopping/businesses, as well as to destinations in Midtown and Downtown, are completely different from the roads used by Eagle River residents.

We remind the Assembly that the 2010 Hillside District Plan (HDP) defines the boundaries of the Hillside. Much thought, effort, and an iterative public process were involved throughout the development of that Assembly-approved plan. The HDP sets a strong precedent for maintaining the cohesion of the RCCC area and the larger Hillside area in one district, with no part of the Hillside combined with Eagle River.

While maintaining a low population deviation between districts is of obvious importance, it is not outlined as a consideration in Section 4.01, and therefore should not be granted more importance than the criteria that are included in Municipal ordinance. Respecting neighborhood continuity is more important than pushing for the smallest deviation in size of each Assembly district and will best achieve fair representation. We do appreciate the difficulty of this effort.

CONCLUSION

In accordance with Anchorage Municipal Ordinance and the strong precedent set by the Hillside District Plan, the RCCC area and larger Hillside of south Anchorage should remain in a single Assembly district with no part of the Hillside combined with Eagle River on the northeast side of Anchorage. Moreover, RCCC recommends that the Assembly take similar care to not split up other neighborhoods throughout Anchorage, and instead, support neighborhood continuity. The Assembly's overarching goal should be to ensure fair and effective representation for all residents.



Ann Rappoport, Co-chair
Rabbit Creek Community Council



Michelle Turner, Co-chair
Rabbit Creek Community Council

Signed: February 13, 2022

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
12/31/2021	Map Three	Elizabeth Forsman	Map 3. I don't believe JBER should be included in downtown. I do believe the port should be.
1/11/2022	Map Five	Cheryl Lovegreen	I just looked through the map proposals for reapportionment. I may have more comments after I have studied the maps more closely, but today I am concerned about District 5, East Anchorage. In the recent state Redistricting process, East Anchorage was pasted onto Eagle River in a way that diluted the power of its diverse population. In the reapportionment, a similar thing happens in Map 3 by adding some South Anchorage residents and in Map 5 by Eagle River absorbing a section east of Muldoon Road. I hope the committee is sensitive to the integrity of our neighborhoods and "relatively integrated socioeconomic area" of each district.
1/11/2022	Map Three	Cheryl Lovegreen	I just looked through the map proposals for reapportionment. I may have more comments after I have studied the maps more closely, but today I am concerned about District 5, East Anchorage. In the recent state Redistricting process, East Anchorage was pasted onto Eagle River in a way that diluted the power of its diverse population. In the reapportionment, a similar thing happens in Map 3 by adding some South Anchorage residents and in Map 5 by Eagle River absorbing a section east of Muldoon Road. I hope the committee is sensitive to the integrity of our neighborhoods and "relatively integrated socioeconomic area" of each district.

Exc. 0832
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/21/2022	Map 10 Wells B	Denmer Wells	<p>After reviewing my Map A and thinking about the shortcomings of some of the other maps, I made a second map: Denny's Map B: https://distrctr.org/plan/103441</p> <ul style="list-style-type: none"> - Even smaller population deviation than Denny's Map A - Compact, mostly following major roads and other natural boundaries, except at the 3-way intersection of Districts 1, 4, and 5, where the boundary follows 36th to Elmore, then across 40th, and finally follows the South Fork of Chester Creek to Boniface. - District 5 includes Russian Jack, as in the current districts. - District 4 is more mid-town and less SW Anchorage. - The District 1/ District 3 boundary is at West Chester rather than the railroad.
1/21/2022	Map One Greene	Denmer Wells	<p>Map 1: Matching Eagle River/Chugiak and upper Hillside with Girdwood/Indian is problematic because those areas are not only discontiguous, but they are significantly culturally different with significantly different issues.</p>

Exc. 0833

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/21/2022	Map Two	Denmer Wells	Map 2: This map, with almost surgical precision, increases the voting power of Eagle River at the expense of Muldoon by putting disparate population sizes in each district.
1/21/2022	Map Three	Denmer Wells	Map 3: As with Map 2, this map surgically increases the voting power of Eagle River at the expense of Muldoon. But it takes that disparity a step further by including lower Hillside with Muldoon. District 5 in this map is both discontinuous and merges significantly different populations.
1/21/2022	Map Four	Denmer Wells	Map 4: This map seems specifically targeted at fracturing the voting power of Muldoon. It splits the current Muldoon district into 3 sections – giving one section each to the Downtown and Eagle River districts, and then adding the significantly un-diverse U-Med area and lower hillside to the remaining skeleton of the diverse Muldoon district.
1/21/2022	Map Five	Denmer Wells	Map 5: This takes the problems of Map #4 and amps them up significantly. It is again specifically targeted at splitting the Muldoon district. This time, it gives even more of the district to Eagle River, and adds JBER to the remaining (even smaller) skeleton of Muldoon.

Exc. 0834

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/21/2022	Unclassified	Denmer Wells	Regarding all 5 proposed maps: In all 5 of the proposed reapportionment maps, my neighborhood along the north shore of Campbell Lake is included in District 6 with south Anchorage and the hillside rather than being included in District 3 with Sand Lake. This is irrational. The area South of Dimond, West of Arlene and North of Campbell Lake should be included in the same district with Sand Lake, as it is now. This area is zoned for Kincaid Elementary school, with our neighbors in Sand Lake. This area is in legislative districts (both current and pending with the new redistricting) with our neighbors in Sand Lake. In order to go from this area to South Anchorage and the rest of the district, we would literally have to transit the Sand Lake district. I understand that someone may draft a proposal with the Sand Lake/South Anchorage boundary at Dimond instead of at Campbell Lake, but that ALL FIVE of the current proposals make this change is irrational and speaks to an underlying problem in the process used to draft these maps. My neighborhood, bounded by Campbell Lake to the south and Dimond Blvd to the north should be included with Sand Lake for our Anchorage Municipal Assembly district. All 5 of these maps are gravely problematic, all in very similar ways. They ALL include the north shore of Campbell Lake with South Anchorage, they ALL advantage Eagle River or pair Eagle River with another dis-similar community in the municipality, and all but Map 1 explicitly disadvantage Muldoon. There is a pattern here. These plans should not be adopted.
1/21/2022	Map 9 Wells A	Denmer Wells	For your consideration, I propose the following map (made using the state redistricting board's tool). Let's call it Denny's Map A https://districtr.org/plan/101570 My proposed map has the following characteristics: - Smaller population deviation from the target than all but the original Map 1 proposal. - It follows major roadways and/or bodies of water for boundaries. No wonky carve-outs. Very compact. - Eagle River is in a district with JBER and Stuckagain Heights. JBER is rational, as it is currently in the Eagle River district, and Eagle River is a bedroom community for JBER. Stuckagain Heights is discontinuous, which is unfortunate, but the demographics and issues there are very similar to the demographics and issues in the neighborhood around the upper reaches of the South Fork of Eagle River.

Exc. 0835

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/21/2022	Unclassified	Denmer Wells	As a real estate photographer, I have spent time in the homes of families all over Anchorage. I have shot more than 2000 homes in the municipality, in all parts of town, from the tiniest run down single-wide trailer to the most amazing million dollar homes, from places in the densest parts of South Addition to the furthest reaches of the Eagle River valley, from homes so new the paint was not yet dry to homes so old they are on historic building registers. I was mindful of that experience as I crafted my maps. I encourage you to be mindful of the whole community as you draft your final official maps. I urge you to adopt a map that is fair and compact. None of your initial 5 drafts fit those criteria. I believe my proposed maps are a step in the right direction. They are certainly more fair than the current 5 drafts, and much more compact than the 2012 district boundaries.
1/21/2022	JBER	Briana Sullivan	I am addressing any maps that include Military Land: Does it matter how many people are registered voters? Does it matter if population is considered Alaska Residents?
1/26/2022	Public Comment Process	Gretchen Stoddard	Please provide an email address to submit comments. I can not find an email for comments in your information. Thank you.
1/27/2022	Eagle River\Hillside	Diane Shellenbaum	I live on the lower Hillside, currently in District 6. I have reviewed maps 1-10, and am strongly against any map that groups Eagle River with portions of the Hillside (maps 1 and 8 are the worst.) The issues of Eagle River are very specific and that population should be represented by Assembly members who can represent those. Hillside issues are different and I believe would be overwhelmed by Eagle River issues.

Exc. 0836
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/27/2022	Map Five	Diane Thompson	Re Map 5: I am concerned about assigning East Anchorage east of Muldoon to Eagle River. I've lived on JBER (back when it was Ft. Richardson) and in Eagle River and Muldoon east of Muldoon road in the impacted area. My experience was that Ft. Rich/JBER was more similar to Eagle River than Muldoon is. I believe people living east of Muldoon Road, but in Muldoon, most closely resemble and would be better served by the same Assembly member as East Anchorage residents west of Muldoon Road.
1/27/2022	Eagle River\Hillside	Diane Thompson	I am concerned about assigning East Anchorage east of Muldoon to Eagle River. I've lived on JBER (back when it was Ft. Richardson) and in Eagle River and Muldoon east of Muldoon road in the impacted area. My experience was that Ft. Rich/JBER was more similar to Eagle River than Muldoon is. I believe people living east of Muldoon Road, but in Muldoon, most closely resemble and would be better served by the same Assembly member as East Anchorage residents west of Muldoon Road.
1/27/2022	Map 8 Alaskans for Fair Redistricting	Elizabeth Ellis	Hello, I support adopting map number eight for Anchorage. Thank you.

Exc. 0837

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/28/2022	Eagle River\Hillside	Helene Mikes	<p>Proposed Map#1 makes no sense for anything besides numbers. Picking off the southernmost part of District 6 and putting it into District 2, with which there is no contiguous road, is absurd. I suppose the residents of Goldenview and Potter Valley should hike 2 days to meetings through the Chugach? (sorry, being sarcastic)</p> <p>Why do you want to move JBER into District 1 anyway?</p> <p>Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base?</p> <p>Map 5: Again, why include Basher in District 6? And why put Muldoon in with District 2? If there were concerns about having a driving connection to the rest of the district, neither of these makes any sense.</p> <p>Map 6: Not sure why Independence Park needed to be carved out of District 6.</p> <p>Map 7: I am absolutely opposed to having East Hillside lumped in with District 2. I live in Anchorage, not in Eagle River or Chugiak.</p> <p>Same for Map 8. If the intent is to combine neighborhoods by socioeconomic status, there are plenty of similar places in Anchorage to combine. Has anyone done that sort of analysis, by the way? It would be interesting to see it.</p> <p>Please especially refer my comments to my two assembly members, John Weddleton and Suzanne LaFrance.</p>

Exc. 0838

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/28/2022	Map One Greene	Helene Mikes	Proposed Map#1 makes no sense for anything besides numbers. Picking off the southernmost part of District 6 and putting it into District 2, with which there is no contiguous road, is absurd. I suppose the residents of Goldenview and Potter Valley should hike 2 days to meetings through the Chugach? (sorry, being sarcastic) Why do you want to move JBER into District 1 anyway?
1/28/2022	Map Three	Helene Mikes	Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base?
1/28/2022	Map Four	Helene Mikes	Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base?
1/28/2022	Map Five	Helene Mikes	Map 5: Again, why include Basher in District 6? And why put Muldoon in with District 2? If there were concerns about having a driving connection to the rest of the district, neither of these makes any sense.
1/28/2022	Map 6 Anchorage Action	Helene Mikes	Map 6: Not sure why Independence Park needed to be carved out of District 6.

Exc. 0839

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/28/2022	Map 7 Hockema	Helene Mikes	Map 7: I am absolutely opposed to having East Hillside lumped in with District 2. I live in Anchorage, not in Eagle River or Chugiak.
1/28/2022	Map 8 Alaskans for Fair Redistricting	Helene Mikes	I live in Anchorage, not in Eagle River or Chugiak. Same for Map 8. If the intent is to combine neighborhoods by socioeconomic status, there are plenty of similar places in Anchorage to combine. Has anyone done that sort of analysis, by the way? It would be interesting to see it.
1/28/2022	Public Comment Process	Helene Mikes	Please especially refer my comments to my two assembly members, John Weddleton and Suzanne LaFrance.
1/28/2022	Map Four	Darryl Parks	Within the maps, map 4 makes the most sense from a boundary standpoint. The problem lies that by including JBER in any of the districts, you do that district a disservice. Many, a large portion, of the population on JBER are not registered voters in the state of Alaska, as many service members maintain residency in their home state, even though they benefit from the services provided by the municipality. JBER residents are a transient population with most serving for 3 years, then moving on to their next assignment. Including JBER impacts the voting power of any district that includes portions of the base since many of the residents are not eligible to vote in the district where they reside.

Exc. 0840
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/31/2022	Map 6 Anchorage Action	Curtis Smith	<p>I would like to strongly advocate for the adoption of Map #6 proposed by Anchorage Action for many reasons including the following:</p> <ul style="list-style-type: none">- Highly compact and contiguous- Closely resembles the current map except for the District 1, which understandably extends into Midtown due to the addition of a second representative- Better than Map #2, the next best map, for reasons that include:<ul style="list-style-type: none">o Lower total deviationo District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6) <p>All of the remaining maps have substantial issues including the following:</p> <ul style="list-style-type: none">- Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families- Not compact--e.g., District 5 in Map #3 extends over an unacceptably large and varied area from the Glenn Highway all the way to Huffman Road <p>None of the proposed maps is perfect, but I believe Map #6 proposed by Anchorage Action is the best option for the reasons mentioned above. Thank you for the opportunity to comment.</p> <p>Curtis Smith</p>

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/31/2022	Eagle River\Hillside	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights -
1/31/22	JBER	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/22	Map Three	Curtis Smith	- Not compact--e.g., District 5 in Map #3 extends over an unacceptably large and varied area from the Glenn Highway all the way to Huffman Road
1/31/2022	Map Two	Curtis Smith	District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)
1/31/2022	Map One Greene	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights - Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families

Exc. 0842
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/31/2022	Map 7 Hockema	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights - Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map 9 Wells A	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights
1/31/2022	Map 10 Wells B	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights
1/31/22	Map Four	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/22	Map Five	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families

Exc. 0843
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
1/31/22	Map 7 Hockema	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/22	Map 8 Alaskans for Fair Redistricting	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map 6 Anchorage Action	Curtis Smith	District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)
1/31/2022	Map Two	Curtis Smith	I would like to strongly advocate for the adoption of Map #6 proposed by Anchorage Action for many reasons including the following: - Highly compact and contiguous - Closely resembles the current map except for the District 1, which understandably extends into Midtown due to the addition of a second representative - Better than Map #2, the next best map, for reasons that include: o Lower total deviation o District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)

Exc. 0844

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Map 9 Wells A	Denmer Wells	<p>After the initial rounds of public feedback, I'd like to offer a revised map selection. Let's call this Denny's Neighborhood Cohesion map. I'd like to specifically offer it as a replacement for Denny's Map A, currently hosted as Map 9 on the reapportionment page. This map can be found at It can also be found at https://districtr.org/plan/107533 and an image of it is attached to this comment.</p> <p>The message I heard at the public hearings, and through people who have reached out since, is that keeping neighborhoods together is a high priority for the community. I heard this at last Wednesday's meeting from Assembly Member Zalatel regarding Rogers Park. I heard this from residents who spoke at Thursday's meeting about keeping Hillside together. I heard this from Assembly Member Allard at Thursday's meeting regarding maps that paired Eagle River with distant communities along Hillside or Turnagain Arm. I heard this from Stuckagain Heights residents who reached out expressing a desire to stay connected with Anchorage districts. The public comments online also are generally critical of various Anchorage-Eagle River or Anchorage-JBER pairings.</p> <p>I know that Alaskan's for Fair Redistricting has advocated an extremely low per-district deviation to achieve as much voter-parity as possible. But their map makes clear that holding rigidly to such a target results in a deep disregard for neighborhood integrity. In addition to their unusual boundary splitting neighborhoods across the north end of Russian Jack and Muldoon, their low deviation target drove a really unusual break through the middle of Bayshore, the carving off of a single block in the neighborhood around Vernon Street south of Dimond, a circuitous cut through Goldenview, drawing a line through the middle of the neighborhood south of Campbell Elementary, and they cut Airport Heights in half. I appreciate the precision with which they achieved a low deviation, but I believe their map demonstrates the unintended consequences of only focusing on one measure of equitable districts (low deviation) without considering other measures.</p> <p>Some of the other maps were less concerned with deviation, but they also missed some neighborhood cohesion elements.</p>

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Eagle River\Hillside	Denmer Wells	<p>The message I heard at the public hearings, and through people who have reached out since, is that keeping neighborhoods together is a high priority for the community. I heard this at last Wednesday's meeting from Assembly Member Zalatel regarding Rogers Park. I heard this from residents who spoke at Thursday's meeting about keeping Hillside together. I heard this from Assembly Member Allard at Thursday's meeting regarding maps that paired Eagle River with distant communities along Hillside or Turnagain Arm. I heard this from Stuckagain Heights residents who reached out expressing a desire to stay connected with Anchorage districts. The public comments online also are generally critical of various Anchorage-Eagle River or Anchorage-JBER pairings. With my Neighborhood Cohesion map, I stayed with major roadways and waterways as boundaries as much as possible, as with my earlier proposal. I made the districts as compact as possible. Unlike the other maps which extend District 1 either north into JBER or south into Midtown, I paired the existing Downtown district with Turnagain and South Spenard, with the additional boundaries being Minnesota Blvd and International Airport Way. This map also has a couple of possible revisions which could be considered, in case you want to further reduce deviation: or further enhance compactness. Variation 1: Deviation Reduction Swap Stuckagain Heights from District 5 to District 2, and swap the census track that encompasses the northern half of Russian Jack Park from District 1 to District 2. This reduces deviation to 3 _ 22%. It retains 2 majority-minority districts. But it does impart significant road travel for the District 2 representatives to visit Stuckagain Heights. Swapping the census track that encompasses the Tikahtnu Commons retail complex from District 2 to District 5 further reduces deviation to 3 19% Variation 2: Compactness Enhancement. Swap the area around Reka and East High with the area around Wesleyan between districts 4 and 5, making the new boundary a north-south line along the Pine Street corridor, bordered by parks on one side of the boundary through its entire course. You could also swap Far North Bicentennial Park from District 5 to either District 4 or District 6 this would be entirety about the appearance of compactness, as there is no population there. Deviation is still 4.22%, but district 5 is now only 49.7% minority, so there is only one majority-minority district. Variation 3: Combine Variation 1 and Variation 2. Deviation is now 3.19%. We again have 2 majority-minority districts, but just barely district 5 is now 50.1% minority. The only way to get a deviation lower than this is to combine Eagle River with some other significant population center either combining Eagle River with a portion of Muldoon, or with a portion of Hillside, or with Girdwood and Indian. The public feedback we have</p>

Exc. 0846

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Map 6 Anchorage Action	Doug Robbins	<p>The standards for drawing fair Anchorage reapportionment maps should be the same as the criteria for State Districts in the Alaska constitution. Districts should be near equal population, compact, contiguous, and represent related neighborhoods. By those criteria, the best proposed map is Map 6, submitted by Anchorage Action. The districts in this map are compact, contiguous, and connect related neighborhoods. Proposed Map 2 is also good, but has a higher overall population deviation than Map 6.</p> <p>Map 6: Good. Districts are contiguous and compact, connecting related neighborhoods, with a better population deviation than Map 2.</p>
2/1/2022	Map Two	Doug Robbins	<p>The standards for drawing fair Anchorage reapportionment maps should be the same as the criteria for State Districts in the Alaska constitution. Districts should be near equal population, compact, contiguous, and represent related neighborhoods. By those criteria, the best proposed map is Map 6, submitted by Anchorage Action. The districts in this map are compact, contiguous, and connect related neighborhoods. Proposed Map 2 is also good, but has a higher overall population deviation than Map 6. Map 2: Good. Districts are contiguous and compact; connecting related neighborhoods.</p>
2/1/2022	Eagle River\Hillside	Doug Robbins	<p>By no means should Eagle River be connected to the Anchorage Hillside, Girdwood, or Stuckagain Heights. These neighborhoods use entirely different municipal infrastructure than Eagle River, have different problems, and cannot be represented well by a single Assembly representative. You shouldn't have to drive through other districts to get from one side to the other side of a district. Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River.</p>

Exc. 0847

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Map One Greene	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 1: Bad. Joins SE Anchorage and Girdwood to Eagle River.
2/1/2022	Map Three	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 3: Bad. District 5 extends across unpopulated Bicentennial Park, connecting unrelated neighborhoods north and south from Glenn Highway to South Anchorage.
2/1/2022	Map Four	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 4: Bad. District 5 is not contiguous or compact; it extends across Bicentennial Park, connecting unrelated neighborhoods.
2/1/2022	Map Five	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 5: Bad. District 5 is not compact; it connects JBER with a neighborhood adjacent to Dowling.
2/1/2022	Map 7 Hockema	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 7: Bad. Stuckagain Heights and the Upper Hillside are connected with Eagle River.

Exc. 0848

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Map 8 Alaskans for Fair Redistricting	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 8: Bad. Lower & Upper Hillside, and Stuckagain Heights are connected to Eagle River.
2/1/2022	Map 9 Wells A	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 9: Bad. Stuckagain Heights is connected to Eagle River.
2/1/2022	Map 10 Wells B	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 10: Bad. Stuckagain Heights is connected to Eagle River.

Exc. 0849

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Eagle River\Hillside	Nicole Branch	<p>After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions.</p> <p>1) JBER is a unique part of our community. JBER falls under a single community commander who is responsible for everything that happens on the base. Dividing JBER into more than one district, whether 1, 2, or 5, will not allow for the base commander to create a unified and cohesive base. The responsibilities of the base commander stretch into the community. The base commander should be focused on their "constituents" and not the juggling the responsibilities associated with multiple districts. Also, one needs to examine the actual number of Alaskan voters on JBER. Dividing them into multiple districts may not provide them with the best representation possible.</p> <p>2) I also disagree with dividing the Hillside into district 2 or 6. The assumption is that Hillside voters align with ER voters due to lot size among other factors. If the Upper Hillside to Girdwood is placed in District 2, I believe that those in Bird thru Girdwood will be underrepresented. Should they become part of District 2, their representation will be invisible due to the strength of ER. The Hillside should closely mimic the school boundaries set by ASD creating a unified interest. It is nonsensical to have the district 2 representative drive every district to reach both ends of their district. Logic needs to drive the reapportionment, not creating the most favorable boundaries for elections.</p>
2/1/2022	Map Three	Nicole Branch	<p>After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions.</p>

Exc. 0850

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/1/2022	Map Five	Nicole Branch	After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions.
2/3/2022	Eagle River\Hillside	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10, as well as Anchorage Action map #6. Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Eagle River\Hillside	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER
2/3/2022	Map 9 Wells A	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10
2/3/2022	Map 10 Wells B	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10

Exc. 0851
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/3/2022	Map Two	Patrick Hoffmann	Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Map Four	Patrick Hoffmann	Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Map 6 Anchorage Action	Patrick Hoffmann	Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10, as well as Anchorage Action map #6.
2/3/2022	Eagle River\Hillside	Catherine Larrea	After review of the proposed redistricting maps, I am strongly against any boundary changes that would lump any part of the Hillside area with Eagle River/Chugiak areas. These are completely different communities. The maps proposals I appose are Map 1, Map 7 and Map 8. I oppose any other current or future redistricting that combine any or all of the Hillside with Eagle River.
2/3/2022	Map One Greene	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.

Exc. 0852

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/3/2022	Map 7 Hockema	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.
2/3/2022	Map 8 Alaskans for Fair Redistricting	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.
2/3/2022	Eagle River\Hillside	Deirdre Schwartz	I have reviewed the redistributing maps and want to express concern over extending District 2 into the South Anchorage Hillside beyond the military boundary as shown in Map 8 and others. Eagle River and the non-military areas of Anchorage Hillside are very different politically, demographically, and environmentally. I would not expect an elected Assembly member to be able to fairly represent such diverse interests and priorities. Please do not dilute representation for either community by combining these disparate areas.
2/3/2022	Map 8 Alaskans for Fair Redistricting	Deirdre Schwartz	I have reviewed the redistributing maps and want to express concern over extending District 2 into the South Anchorage Hillside beyond the military boundary as shown in Map 8 and others. Eagle River and the non-military areas of Anchorage Hillside are very different politically, demographically, and environmentally. I would not expect an elected Assembly member to be able to fairly represent such diverse interests and priorities. Please do not dilute representation for either community by combining these disparate areas.

Exc. 0853

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/3/2022	Eagle River\Hillside	Cathy Foerster	The constituency and needs of the Upper Hillside are very different from those of Eagle River and Chugiak. Please do not lump their representation.
2/3/2022	Eagle River\Hillside	Cindy Lelake	<p>Listening to the first (virtual) muni redistricting conversation, I was struck by the fact that Independence Park, where I reside, seems to move at whim from map to map.</p> <p>The precise "character" of Independence Park, which seems to be a perennial question, also permeates state redistricting maps and efforts. In the current state redistricting plan, it joins the Lower Hillside in District 11.</p> <p>My perspective is that, as far as muni redistricting goes, the high-density housing situation of most of Independence Park makes it a poor candidate for combination with the Hillside assembly district, which for the most part consists of individual dwellings on relatively large property parcels.</p> <p>Thanks for considering my input!</p> <p>Cindy Lelake</p>
2/3/2022	Eagle River\Hillside	Stephanie Cornwell-George	Leave Eagle River and Chugiak as they are. We are nothing like hillside or Girdwood. We each have our own concerns, a rep trying to speak for both would not be representative and would limit access. ERCC includes Birchwood, Peters creek, Eklutna and these areas are one of the few places left for anchorage to really grow. Eagle River already wants to separate, lumping us in with another community that has their own unique needs would only push that desire further.

Exc. 0854

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/3/2022	Eagle River\Hillside	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. I live in the mid-Hillside, near Huffman and Birch Roads. I know little about local issues as they affect Eagle River, which represents the heart of Dist. 2. Nor do I believe many residents of Dist. 2 know much about where I live. "Contiguous" means "being in actual contact or sharing a common boundary." My neighborhood is NOT in contact with Eagle River. That is an absurd assertion. If there is a "common boundary" here, it seems to be Chugach State Park. Are there any voters in the Park? Are there voting precincts in the Park? No, there are not. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Just because you can color in a section of Chugach State Park as if it were part of Dist. 2 does not establish a meaningful connection between Eagle River and my mid-Hillside neighborhood. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. They are absurd. At present, I feel very well represented by the assembly persons for District 6. Please do not put me in District 2. The Hon. Jamie Allard would not well represent me or my family on the Assembly. And the representation works both ways: Believe me, Ms. Allard would not want me as a constituent. Vote NO on Map 1 and Map 8!

Exc. 0855

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/3/2022	Map One Greene	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. Vote NO on Map 1 and Map 8!
2/3/2022	Map 8 Alaskans for Fair Redistricting	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. Vote NO on Map 1 and Map 8!
2/4/2022	Map Two	Kenneth Kugel	I support Map 2. The new districts as drawn are compact and maintain neighborhood cohesiveness. There is minimal movement of the existing district boundaries so as to be the least disruptive to the voters.

Exc. 0856

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/5/2022	Eagle River\Hillside	Matt Burkholder	Please keep neighborhoods whole and districts contiguous. Please leave Eagle River in Eagle River and don't drag it down into South Anchorage. Thanks.
2/6/2022	Eagle River\Hillside	Julie Coulombe	I strongly object to any of the Hillside being combined with District 2. It is not contiguous. We are also our own separate community with shared interests and history. Large lots, wells and LRSA's do not wholly define a community. Eagle River has its own unique identity and issues that will overshadow the small population being proposed on the Hillside for District 2. Eagle River should be combined with JBER instead of Muldoon or the Hillside. Eagle River has a high percentage of military population living there, and is a much more obvious fit with JBER. I also urge you not to just focus on the variance, but community cohesion. It makes more sense for the Midtown District to move South and West into District 6, than to take off the Hillside to District 2.
2/6/2022	Eagle River\Hillside	charles springer	The idea of combining Eagle River and the Hillside is absurd. Now if your reason is to dilute the representation of the Hillside then it represents the best in gerrymandering.
2/7/2022	Eagle River\Hillside	Jodi Taylor	Maps that join South Anchorage and Eagle River are putting together two communities with separate needs. Eagle River is clearly a bedroom community of Anchorage vs South Anchorage is part of the city - wishes of residents will be too varied and poor fit. Maps that leave Eagle River with JBER, where families go to school, shop, sports have worked and make sense. Leaving South Anchorage as a group also makes sense for families that shop, children attend same schools and use the same community areas therefore have stronger overlapping concerns. Please keep South Anchorage alone, and group JBER w Eagle River.

Exc. 0857

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/7/2022	Map Two	Paula Davis	<p>Hi Reapportionment Committee,</p> <p>Thanks so much for including the public in this very important process, since it could affect us all so much. I'd like to go on record for a preference for Map2 of the options displayed recently at the library. I had a hard time trying to figure out the districts from the movable map on line, so I really appreciated the nice visual, which I'm sure you must display from time to time.</p> <p>In a nutshell, Map 2 seems the best because it seems least disruptive and doesn't stretch out districts to include areas that do not seem related.</p> <p>Thanks for all your hard work.</p> <p>Sincerely,</p> <p>Paula Davis</p>
2/7/2022	Eagle River\Hillside	Cynthia Wentworth	<p>Dear Assembly members,</p> <p>I strongly oppose creating District 2 Chugiak/Eagle River to include much of the eastern Hillside. These are two areas which differ socioculturally and which have very different issues. I feel the Hillside residents would be outnumbered and misrepresented.</p>
2/8/2022	Map Five	Bryan Silva	<p>I would be willing to accept all the apportionment maps as presented except #5. However, Eagle River should not be part of the Muldoon district. These are very different neighborhoods and need to be separated for voting purposes. Let the two neighborhoods be part of more similar voting districts.</p>

Exc. 0858

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/8/2022	Eagle River\Hillside	John Yeafoli	Districts should be contiguous to the greatest extent possible, allowing citizens and representatives to focus on common issues. Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Map 7 Hockema	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Map 8 Alaskans for Fair Redistricting	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Eagle River\Hillside	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside. The Anchorage Hillside is a compact, cohesive and well-established area represented by the Hillside District Plan for well over a decade. It has little in in common with Eagle River, and attempts to fly over the mountains and combine the two areas are obscene. Unlike the Anchorage Hillside, Eagle River has their own Parks & Rec department and their own road service area. Please ensure that the Anchorage Hillside is kept in one area, united as we have always been. Thank you.

Exc. 0859

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/8/2022	Map 6 Anchorage Action	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.
2/8/2022	Map 9 Wells A	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.
2/8/2022	Map 10 Wells B	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.
2/8/2022	Eagle River\Hillside	Nicholas Mazzolini	I believe that the combining of the hillside and Eagle River marginalizes the voters of these areas. For this reason, i would like to oppose this reapportionment. Nick Mazzolini and household

Exc. 0860

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/8/2022	Eagle River\Hillside	John Kaufman	This is John Kaufman of Hillside O'Malley HOCC. I have read the maps and comments. The maps and comments for maps A and B are excellent. Map 10 is also excellent. Above all, please observe the boundaries of the Hillside District Plan. Do not merge Eagle River with any portion of Hillside. Few population changes or movements exist that would justify dividing our traditional associations and boundaries into separate districts. Thank you
2/8/2022	Map 10 Wells B	John Kaufman	The maps and comments for maps A and B are excellent. Map 10 is also excellent.
2/8/2022	Map 9 Wells A	John Kaufman	The maps and comments for maps A and B are excellent.

Exc. 0861

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/9/2022	Eagle River\Hillside	Huffman O'Malley Community Cou HOCC c/o Gretchen Stoddard	The Huffman O'Malley Community Council board met on 2/8/22 and unanimously passed a resolution related to Municipal Reapportionment. The HOCC supports reapportioned districts which keep the lower and upper Hillside together forming a district with boundaries similar to the Hillside District Plan and with road access to support community functions . The signed resolution is attached and has sent by email to the municipal assembly email addresses. Thank you Gretchen Stoddard President, Huffman O'Malley Community Council
2/9/2022	Eagle River\Hillside	Katie Nolan	The addition of several new potential reapportionment maps has provided a map that meets the Hillside's unique needs. The John Weddleton Map 11 meets the needs of the Anchorage Hillside, most follows the boundaries of the Hillside District Plan, and keeps our distinct neighborhoods together. I urge endorsement of this map. Thank you.
2/12/2022	Eagle River\Hillside	Peter Johnson	I have been following the reapportionment map proposals and am very concerned about maps that join Eagle River (district 2) with parts of the Anchorage Hillside (district 6). because of the population density of Eagle River and the low density of the Hillside, those from district 6 being placed in district 2 would lose any political voice they now have. Additionally, the Anchorage Hillside is a coherent community with common interests and values. Splitting the hillside into different districts does not make sense and must not be done. Of the maps presented, I support Anchorage Action V2. I am adamantly against the Robert Hockema V2 and the Anchorage for Fair Redistricting maps. Both of those maps will result in beefing up Eagle River's political influence and decrease South Anchorage's political voice.

Exc. 0862

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/13/2022	Eagle River\Hillside	Kim Mazzolini	<p>I strongly disagree with the re-apportionment concept of combining Eagle River and the hillside. The very fact that these two communities are on polar opposite sides of multiple issues and the demographics are drastically different are reason enough not to force them into the same voting district. In addition, growth in the anchorage area is in the direction of eagle river which will quickly create an imbalance. The combining of these two districts will also lead to a drastic marginalization of many of these citizens' votes and is not in the best interest of either of these districts.</p> <p>Reapportionment is not to be used as a political tool in an attempt to strengthen a liberal majority. Once again your push to control the Anchorage area voters needs to be called out. Unfortunately this constant conflict the assembly creates with the people of Anchorage is outrageous and needs to stop!</p>
2/13/2022	Eagle River\Hillside	EG Paul Mazzolini	<p>I strongly disagree with the re-apportionment concept of combining Eagle River and the hillside. The very fact that these two communities are on polar opposite sides of multiple issues and the demographics are drastically different are reason enough not to force them into the same voting district. In addition, growth in the anchorage area is in the direction of eagle river which will quickly create an imbalance. The combining of these two districts will also lead to a drastic marginalization of many of these citizens' votes and is not in the best interest of either of these districts.</p> <p>Reapportionment is not to be used as a political tool in an attempt to strengthen a liberal majority. Once again your push to control the Anchorage area voters needs to be called out. Unfortunately this constant conflict the assembly creates with the people of Anchorage is outrageous and needs to stop!</p>

Exc. 0863

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/14/2022	Map 10 Wells B	Courtney Weaver	As the deadline draws near for the approval of new district maps for Anchorage, I would like you all to consider approving district map 10. This map draws the boundaries of the districts at distinct and specific road systems. Anchorage residents can rely on map 10 because the boundaries are laid out along most major roadways and intersections. This map ensures all residents are equally represented on the assembly regardless of political leaning, beliefs, or creed. Please consider the approval and use of district map 10.
2/14/2022	Eagle River\Hillside	Vicki Herman	I do not support combining Eagle River and the Hillside into one district.
2/14/2022	Map 11v2 Weddleton	Nicole Branch	<p>To whom it may concern:</p> <p>I would like to place a rank order for preference of the remaining three reapportionment maps.</p> <ol style="list-style-type: none"> 1. Weddleton map. Boundaries are clear and concise between districts. 2. Anchorage Action v2. Maintains integrity within the hillside. District 4 boundaries between Lake Otis and New Seward create some confusion in an otherwise cohesive area. 3. Hocksma v2. District 4 boundary has the same issue as the Anchorage Action map. Also, a portion of Hillside is placed in district 2. Not optimal for fair representation. <p>Thank you, Nicole Branch</p>

Exc. 0864

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/14/2022	Map 6v2 Anchorage Action	Nicole Branch	2. Anchorage Action v2. Maintains integrity within the hillside. District 4 boundaries between Lake Otis and New Seward create some confusion in an otherwise cohesive area.
2/14/2022	Map 7v2 Hockema	Nicole Branch	3. Hocksma v2. District 4 boundary has the same issue as the Anchorage Action map. Also, a portion of Hillside is placed in district 2. Not optimal for fair representation.
2/14/2022	Eagle River\Hillside	Scott Herman	I oppose combining the hillside and eagle river into one voting district.
2/14/2022	Map 11v2 Weddleton	Irene Bortnick	As residents of the Rogers Park Community Council, our preference is for map 11 which leaves most of out community council intact. Irene and Alex Bortnick

Exc. 0865

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/14/2022	Map 6v2 Anchorage Action	Sandra Blomfield	<p>Reapportionment Committee, I have reviewed the criteria and maps presented for consideration. I would like to endorse MAP #6.</p> <p>However, you might consider minor changes to the midtown area. Boundaries for a midtown area logically could include:</p> <p>NORTH BOUNDARY DEBAR ROAD SOUTH BOUNDARY TUDOR ROAD EAST BOUNDARY BONIFACE ROAD WEST BOUNDARY MINNESOTA</p> <p>The above boundaries offer Midtown residents their own representation and is not included with the Downtown district. Downtown district should include the port</p> <p>JBEAR should be included with Eagle River</p> <p>Strong opposition to moving the Upper Hillside to Eagle River.</p> <p>Thank you for your consideration. Sandy Blomfield</p>
2/14/2022	Eagle River\Hillside	Sandra Blomfield	Strong opposition to moving the Upper Hillside to Eagle River.

Exc. 0866

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/14/2022	JBER	Sandra Blomfield	JBEAR should be included with Eagle River
2/15/2022	Map 10 Wells B	Nathan Andrews	I support the adoption and approval of proposed Map 10
2/15/2022	Map 12 Allard	Brad Chastain	I own four properties within the Municipality of Anchorage and fully support Map 12 offered by Assemblywoman Allard.
2/15/2022	Map 6v2 Anchorage Action	David Ferriera	I support map 6 and 7!
2/15/2022	Map 7v2 Hockema	David Ferriera	I support map 6 and 7!

Exc. 0867

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/15/2022	Unclassified	Daisy Smith	I support Map 11b for the strongest consideration. I see no cause for concern in this map. Districting lines stay mostly along natural lines and none of the current districts are carved up in some radical way. Thanks-
2/16/2022	Eagle River\Hillside	Rebecca Judd	I'm very concerned that our rabbit creek hillside area is being considered in the same district as Eagle River. We have very little in common with people who live in ER other than some of us live in the mountains. We don't share the same services, roads, stores or schools. Their interests and ours are different and sometimes in conflict. Neither area will be represented fairly by the same individual. (I know there are several map revisions taking place, so I am not able to keep track of all of them.)
2/16/2022	Eagle River\Hillside	Claire Steffens	I live in South Anchorage and request that the South Anchorage area be retained as a single, cohesive district, not broken into parts and pieces with other areas. I also request that the prevailing philosophy in re-districting returns to the values supporting what is good for our residents, not what is good for an individual Assembly member's political philosophy. Our grand children and great grand children deserve high integrity from political servants (which is what each Assembly member is - a political servant of his/her constituents). Let's get back to what is good in the long run, and makes common sense, not what is expedient at the moment. Thank you for listening.

Exc. 0868

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/16/2022	Eagle River\Hillside	JOHN RILEY	I oppose the combination of any portions of the Hillside with Eagle River. I want to emphasize that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area. I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Map 10 Wells B	JOHN RILEY	I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Map 9 Wells A	JOHN RILEY	I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Eagle River\Hillside	Scott Bailey	I am submitting comments on Map 11b. This map should be adopted maintaining five contiguous communities including those of Eagle River/Chugiak. These communities have different neighborhood issues, infrastructures and are under a seperate Chapter of Title 21 from the rest of Anchorage. Birchwood, Peters Creek and Eklutna anchor the NE section of this Assembly District.

Exc. 0869

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/16/2022	Map 11v2 Weddleton	Scott Bailey	I am submitting comments on Map 11b. This map should be adopted maintaining five contiguous communities including those of Eagle River/Chugiak. These communities have different neighborhood issues, infrastructures and are under a seperate Chapter of Title 21 from the rest of Anchorage. Birchwood, Peters Creek and Eklutna anchor the NE section of this Assembly District.
2/17/2022	Map 6v2 Anchorage Action	Cindy Lelake	Map 6v.2 is my favorite so far, because it preserves the integrity of Independence Park as a member of Abbott Loop rather than the Hillside.
2/17/2022	Map 6v2 Anchorage Action	Jennifer Harlos	I support Map6v2. It keeps things more continuous, stays true to historic districts, and just makes sense. Putting this section of Anchorage with Eagle River makes no sense.
2/17/2022	Map 7v2 Hockema	Marc June	As a 35 year Hillside resident, I am outraged at Map 7.v.2 which puts my neighborhood in an Eagle River Assembly district. Effectively, this will mean I am unrepresentative as the Hillside has few, if any, local government issues in common with Eagle River. I encourage you to vote against Map 7.v.2. I support Assembly person Weddleton's proposed map.

Exc. 0870

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/17/2022	Eagle River\Hillside	Marc June	As a 35 year Hillside resident, I am outraged at Map 7.v.2 which puts my neighborhood in an Eagle River Assembly district. Effectively, this will mean I am unrepresentative as the Hillside has few, if any, local government issues in common with Eagle River.
2/17/2022	Eagle River\Hillside	Jennie Bostick	I do not support any map that joins South Anchorage/Hillside with Chugiak/Eagle River. Thank you
2/17/2022	Eagle River\Hillside	Gennifer Moreau	OPPOSE redistricting Glen Alps to be part of Eagle River.
2/18/2022	Eagle River\Hillside	Shannon Wileman	I have looked at the maps that are for up for consideration for reapportionment. Please do not combine Hillside with Eagle River. Those communities are not contiguous and have vastly different needs.
2/18/2022	Eagle River\Hillside	Trina Lovdahl	I am opposed to linking Hillside and Eagle River together in the reapportionment maps. Thank you

Exc. 0871

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/18/2022	Map 11v2 Weddleton	sage cohen	I strongly support Map 11 Version 2 I strongly opposed Map 12
2/18/2022	Map 12 Allard	sage cohen	I strongly opposed Map 12
2/18/2022	Eagle River\Hillside	James Wileman	If you're going to combine south anchorage and eagle river-which is a stupid idea, just make all assembly seats at large.
2/19/2022	Map 12 Allard	Sandy Blomfield	As you continue to refine the reapportionment maps, and after review I endorse: Map #12

Exc. 0872
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/19/2022	Map 11v2 Weddleton	Catherine Coward	To whom it may concern, Thank you for taking public testimony regarding assembly boundaries. I have reviewed version 2 of the proposed maps and hope that you will approve Map 11, Version 2 (the John Weddleton map), as it appears to have the most clean cut and compacted districts. I live in East Anchorage, and appreciate that the my district boundaries are sensible. Thank you for your consideration on this matter.

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/20/2022	Map 11v2 Weddleton	Catherine Giessel	<p>Dear Assembly members, I am writing in SUPPORT OF MAP 11v2. I believe it keeps well-identified neighborhoods intact, which is very important.</p> <p>A second choice is MAP 6v2. This is very much like our Assembly districts are today. It keeps the Hillside District Plan areas together and also seems to align with Community Council areas, which makes sense.</p> <p>I am OPPOSED to combining any portion of the Anchorage hillside with any portion of Eagle River.</p> <p>Thank you for your diligent work on this important issue.</p> <p>Best regards, Cathy</p> <p>Cathy Giessel, MS, RN, APRN, FAANP cgiessel@me.com 907.242.5450</p> <p>12701 Ridgewood Rd, ANC 99516</p>
2/20/2022	Map 6v2 Anchorage Action	Catherine Giessel	<p>A second choice is MAP 6v2. This is very much like our Assembly districts are today. It keeps the Hillside District Plan areas together and also seems to align with Community Council areas, which makes sense.</p>

Exc. 0874

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/20/2022	Eagle River\Hillside	Catherine Giessel	I am OPPOSED to combining any portion of the Anchorage hillside with any portion of Eagle River.
2/21/2022	Eagle River\Hillside	Robert Polley	To whom it may concern: I'm writing to voice my strong opposition to the potential redistricting which could allocate a portion of the Glen Alps neighborhood to the Eagle River district. As a resident of Glen Alps for the past 10 years, I can tell you we have zero connection to Eagle River, geographic or otherwise. Thank you for considering my input. Robert Polley
2/21/2022	Map 7v2 Hockema	Michele Martin	Comment on Map 7v2: Against my better judgement, I'm submitting this comment regarding the idiocy of combining the residents of Glen Alps with Eagle River. Why against my better judgement? Because the assembly is going to do what it wants to do so I'm basically wasting my time and energy on this. I have served on the Glen Alps Road Service Area (GARSA) Board of directors, since 2010, and intend to serve another 3-year term. The residents of Glen Alps have totally different issues than the residents of Eagle River. Just because the land "touches" does not mean they should be joined and put into the same pot. For those who don't live in either Eagle River or the Glen Alps area, you really don't know what you are talking about and you should leave well enough alone. You should rethink this decision; however, I know you won't.

Exc. 0875

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/21/2022	Map 7v2 Hockema	Joy Boston	I do not support map 7 version 2. Please do not divide Hillside community by combining it with Eagle River. Districts should be contiguous, not interrupted by other districts. Constituents should be able to drive across their home district without crossing through another district. Maps 6v2, 11 and 12 are acceptable. I prefer map 11. Thank you
2/21/2022	Eagle River\Hillside	Joy Boston	Please do not divide Hillside community by combining it with Eagle River. Districts should be contiguous, not interrupted by other districts. Constituents should be able to drive across their home district without crossing through another district.
2/21/2022	Map 6v2 Anchorage Action	Joy Boston	Maps 6v2, 11 and 12 are acceptable.
2/21/2022	Map 12 Allard	Joy Boston	Maps 6v2, 11 and 12 are acceptable.

Exc. 0876

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/21/2022	Map 11v2 Weddleton	Joy Boston	Maps 6v2, 11 and 12 are acceptable. I prefer map 11.
2/21/2022	Map 11v2 Weddleton	Carolyn Gove	Thank you for the opportunity to comment. I have reviewed the proposed maps and consider Map 11, Version 2 to be the best alternative, as its boundaries are compact and follow natural divisions between neighborhoods.
2/21/2022	Map 11v2 Weddleton	Judy Caminer	I support Assembly Member Weddleton's map. There is no reason to include Glen Alps and areas north of Glen Alps Road in the Eagle River district. His option makes sense and keeps interests aligned with neighborhoods.
2/21/2022	Map 11v2 Weddleton	Julie Coulombe	I'm opposed to Map 7. I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside. I favor Map 11 v2.
2/21/2022	Eagle River\Hillside	Julie Coulombe	I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside.

Exc. 0877

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/21/2022	Map 7 Hockema	Julie Coulombe	I'm opposed to Map 7. I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside.
2/21/2022	Map 11v2 Weddleton	Gene White	After reviewing the proposed redistricting maps, I highly recommend map #11, revision 2. This seems to be the most compact and makes the most sense. Thank You
2/21/2022	Map 11v2 Weddleton	Maria Williams	I support the Weddleton map. I was born and raised in Fairview and live in South Fairview. I support this approach because it is bipartisan and aligns with geographical boundaries that reflect current Anchorage demographics
2/22/2022	Map 11v2 Weddleton	Kathy Kuletz	<p>I am a 30 year resident of Government Hill (Downtown). I have reviewed the proposed redistricting maps and I want the assembly to know that I support Map 11 (v2, Weddleton). This map makes the most sense.</p> <p>I reiterate my strong opposition to any gerrymandered map that was previously proposed, which tried to link a portion of the downtown district to Eagle River.</p> <p>Sincerely, Kathy Kuletz</p>

Exc. 0878

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/22/2022	Eagle River\Hillside	Kathy Kuletz	I reiterate my strong opposition to any gerrymandered map that was previously proposed, which tried to link a portion of the downtown district to Eagle River.
2/22/2022	Map 11v2 Weddleton	Gene White	After reviewing the proposed redistricting maps, I highly recommend map #11, revision 2. This seems to be the most compact and makes the most sense.
2/22/2022	Map 7v2 Hockema	Joy Boston	Please do not reapportion any part of the Anchorage Hillside area to Eagle River as depicted in map 7 version 2. Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district. Keep districts contiguous and do not combined Hillside with Eagle River.
2/22/2022	Map 6v2 Anchorage Action	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.

Exc. 0879

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/22/2022	Map 11v2 Weddleton	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.
2/22/2022	Map 12 Allard	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.
2/22/2022	Eagle River\Hillside	Joy Boston	Please do not reapportion any part of the Anchorage Hillside area to Eagle River as depicted in map 7 version 2. Keep districts contiguous and do not combined Hillside with Eagle River.

Exc. 0880

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/22/2022	Map 7v2 Hockema	Joseph Connolly	<p>To all who are part of the district reapportionment process.</p> <p>I will keep my thoughts simple and brief about the 3 different plans that have been proposed.</p> <p>Specifically, Map 7v.2 should either be amended or removed from consideration for the following primary reasons:</p> <p>1) This plan would apparently use Glen Alps Road as a dividing line between District 2 and 6, and divide our neighborhood in half. Essentially, The people across the street from us would be in district 2, and those of us south of Glen Alps road would be in District 6. This creates a host of issues - the obvious being.. if, for example, we are trying to alleviate a concern in our neighborhood, we would have to contact two different assembly members and assume they would work in unison to solve our problems. 2) It also dilutes the voting power of our neighborhood considerably.3) Eagle river is a 45 minute to an hour drive, depending on where you're coming and going from.. which is extremely far away. This would be like pairing Eagle River with Big Lake, or Sutton. We are not very far geographically, but by road and community it is a long way. 4) We are very much a "South Anchorage" community and in no way do we want to be forced to participate in Eagle River meetings or with Eagle River assembly members if we want our voice heard.</p> <p>Thank you for the consideration.</p> <p>Joe Connolly -Glen Alps Resident -Glen Alps Road Service Area Board of Supervisors Chairperson</p>

Exc. 0881

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Da	ic	Commenter	Comment
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	<p>9040 Emerald Drive Anchorage, Alaska 99502 February 23, 2022</p> <p>Honorable Members of the Anchorage Assembly,</p> <p>I am a resident of District 3 and an endorser of Map 11 v2 for the Anchorage Reapportionment of District Boundaries.</p> <p>1. The Population Deviation Summary indicates there is a fair balance of population numbers in each District without giving preference to any individual group. The Boundaries are logical divisions by major roads and thoroughfares. There is an acceptable deviation of 4.16% +/- for each Districts population count. The shapes of the Districts are compact bounded by straight lines.</p> <p>2. JBER is in one District as befits a more transient population.</p> <p>3. East Anchorage is whole. There is no annexation of Stuckagain Heights into the Eagle River District. Stuckagain Heights is not contiguous with Eagle River.</p> <p>4. Midtown remains its own District. Midtown is distinct from Downtown and South Anchorage.</p> <p>5. Eagle River and Chugiak remain in their own distinct and unique geographical area.</p> <p>Map 11 v2 respects the integrity of Anchorage's diverse and distinct geographical areas. Neighborhoods and</p>

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	I am a resident of District 3 and an endorser of Map 11 v2 for the Anchorage Reapportionment of District Boundaries. 1. The Population Deviation Summary indicates there is a fair balance of population numbers in each District without giving preference to any individual group. The Boundaries are logical divisions by major roads and thoroughfares. There is an acceptable deviation of 4.16% +/- for each Districts population count. The shapes of the Districts are compact bounded by straight lines.
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	JBER is in one District as befits a more transient population.
2/23/2022	Eagle River\Hillside	Jan Carolyn Hardy	East Anchorage is whole. There is no annexation of Stuckagain Heights into the Eagle River District. Stuckagain Heights is not contiguous with Eagle River. Eagle River and Chugiak remain in their own distinct and unique geographical area.
2/23/2022	Map 11v2 Weddleton	David Kohler	I support the Weddleton Map for redistricting because it appears to be the most sensible and least partisan of the options. Thank you David Kohler Anchorage

Exc. 0883

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/23/2022	Map 11v2 Weddleton	Tyler Watson	As a resident of East Anchorage I'm writing in support of Map 11. It's important to me that assembly districts represent actual communities in our city. The maps that pair parts of East Anchorage, Stuckagain Heights, and even Hillside with Eagle River divide communities and make the work for assembly members harder. By keeping common sense boundaries for communities constituents get better representation and assembly members can focus their work more effectively. Thanks for considering my testimony.
2/23/2022	Map 11v2 Weddleton	Sergio ACUNA	Dear Assembly members, I appreciate the opportunity to comment on proposed Assembly district boundaries. I live in Midtown and believe the Weddleton redistricting map is the strongest in terms of compactness and logical district boundaries. Using Dimond/Abbott as southern boundary of the new Midtown district creates a clear and understandable boundary, and the Weddleton map as proposed respects Midtown neighborhoods , including where I live near Lake Otis and Campbell Creek. Thank you for work to update Assembly district boundaries.
2/23/2022	Map 11v2 Weddleton	James Dahl	I appreciate that there is an opportunity granted to weigh in on draft redistricting maps. My family and I reside in South Anchorage, and believe that the Weddleton proposal (Map 11) does the best job in establishing compact, logical districts with boundaries that will be clear and understandable for voters. I do not support the Allard gerrymander, which seems clearly designed to manipulate district boundaries for partisan purposes. Thank you.
2/23/2022	Map 12 Allard	James Dahl	I do not support the Allard gerrymander, which seems clearly designed to manipulate district boundaries for partisan purposes.

Exc. 0884

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/23/2022	Map 6v2 Anchorage Action	D. Matt Duncan	<p>Dear Assembly Members,</p> <p>I want to thank you for this convenient online forum for everyone to make public comment, as well as thank you for all your hard work serving the citizens of our town. I have looked at the four maps very closely and would like to make comment as a homeowner in Anchorage, a member of Spenard Community Council (SCC) and most importantly community organizer for the Old Hermit Park Neighborhood. I am advocating in this public comment for the adoption of map 6v2. The guiding principle for my advocacy understands that the work of the community councils is vital to the success of our city. Each community council's work and identity is extremely valuable to the city and it is highly desirable to maximize representation for the community councils by not dissecting or diluting them into multiple assembly districts. Map 6v2 is the best map for maintaining integrity of Spenard. Map 7v2 is OK, but not as good as 6v2. Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity.</p> <p>Thank you for your time and efforts dealing with these difficult topics.</p> <p>D. Matt Duncan, TSGT, AKANG Vice President Spenard Community Council</p>
2/23/2022	Map 7v2 Hockema	D. Matt Duncan	Map 7v2 is OK, but not as good as 6v2.

Exc. 0885

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/23/2022	Map 11v2 Weddleton	D. Matt Duncan	Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity.
2/23/2022	Map 12 Allard	D. Matt Duncan	Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity.
2/24/2022	Map 7v2 Hockema	Victoria Parks	I oppose Map 7v.2, which lumps the East Hillside in with Eagle River. I'm currently in District 5, and I'm happy there. I don't think the East Hillside/Stuckagain Heights area is anything like Eagle River. Eagle River has its own set of problems which should stay in Eagle River. The active Eagle River secession efforts just highlight that; why would you lump Anchorage voters in with a district that might secede? That's completely unfair to voters who don't identify at all with Eagle River, and who are, in fact, geographically, a long way away from Eagle River.
2/24/2022	Eagle River\Hillside	Victoria Parks	I don't think the East Hillside/Stuckagain Heights area is anything like Eagle River. Eagle River has its own set of problems which should stay in Eagle River. The active Eagle River secession efforts just highlight that; why would you lump Anchorage voters in with a district that might secede? That's completely unfair to voters who don't identify at all with Eagle River, and who are, in fact, geographically, a long way away from Eagle River.

Exc. 0886
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/24/2022	Map 7v2 Hockema	Dorothy Parks	I'm opposed to map 7v,2. I live in Stuckagain Heights and consider it part of Anchorage and not Eagle River. I feel that East Anchorage and Stuckagain Heights should not be lumped with Eagle River. Geographically we may seem close but politically we are far apart. I have read comments from people in South Anchorage and the Hillside who also do not want to be lumped with ER and I agree it is a very bad idea. Thank you.
2/24/2022	Eagle River\Hillside	Dorothy Parks	I live in Stuckagain Heights and consider it part of Anchorage and not Eagle River. I feel that East Anchorage and Stuckagain Heights should not be lumped with Eagle River. Geographically we may seem close but politically we are far apart. I have read comments from people in South Anchorage and the Hillside who also do not want to be lumped with ER and I agree it is a very bad idea.
2/24/2022	Map 11v2 Weddleton	Jillian Simpson	Greetings Anchorage Assembly, I live in Glen Alps in Anchorage and support either Map 11v2 (Weddleton) or Map 6v2 (Anchorage Action). Both keep our neighborhood fully intact and part of South Anchorage. I encourage you to throw away Map 6 v2 as it pairs us with Eagle River. We are not part of the Eagle River community. In fact, I haven't been to Eagle River since 2015. I have been up the Dalton Highway more frequently than I have taken the exit ramp to Eagle River. While we may have a mountain range in common, that is it. I would like to be represented by an Assembly member who is familiar with the issues and needs of my neighborhood- and preferably one who shares my values. Thank you for your consideration.
2/24/2022	Map 6v2 Anchorage Action	Jillian Simpson	I live in Glen Alps in Anchorage and support either Map 11v2 (Weddleton) or Map 6v2 (Anchorage Action). Both keep our neighborhood fully intact and part of South Anchorage.

Exc. 0887

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/24/2022	Eagle River\Hillside	Jillian Simpson	I encourage you to throw away Map 6 v2 as it pairs us with Eagle River. We are not part of the Eagle River community. In fact, I haven't been to Eagle River since 2015. I have been up the Dalton Highway more frequently than I have taken the exit ramp to Eagle River. While we may have a mountain range in common, that is it. I would like to be represented by an Assembly member who is familiar with the issues and needs of my neighborhood- and preferably one who shares my values.
2/24/2022	Map 7v2 Hockema	Colby Parks	Concerning area 7V.2: To merge my area (Stuck Again Heights) with Eagle River, is a disgraceful attempt to prevent local government.
2/24/2022	Map 11v2 Weddleton	Alex Baker	As a resident of Fairview, I am in favor of adopting Map 11. Map 11 keeps me in a district with my downtown neighbors and similar neighborhoods to the east. Map 11 draws common-sense districts for each of Anchorage's distinct geographic areas. The lines are straight and the districts are compact. I believe this map would give each district a fair opportunity to elect the representatives that fit their community and its needs. Thank you for reading my testimony.
2/24/2022	Map 11v2 Weddleton	Gabriel Hardy	As a resident of the Sand Lake area, I am writing to request the Assembly implement map 11 (Weddleton). Map 11 has the most logical boundaries for my district (West Anchorage), compared to other maps that have more jagged boundaries separating West Anchorage and Midtown from South Anchorage. I recognize it is a challenge to maintain fairly equal population and have boundaries that logically follow major roadways or drainages, but Map 11 seems to do the best job compared to other maps that have been advertised for public comment.

Exc. 0888

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/24/2022	Eagle River\Hillside	Greg Groeneweg	Sirs, I have resided in Anchorage since before statehood and have lived on the hillside(area by Hilltop Ski) since 1985. I have turned to my Assembly reps and community counsel from time to time over the years with assistance needed or that I offered. I am very concerned that I would be moved out of my district to Eagle River. That is a different area with different concerns. Please leave our hillside community intact. It is comforting to be connected with my physical neighbors. To be able to share "over-the-fence" so to speak. Please preserve our neighborhood representation. Thank you, Greg Groeneweg
2/24/2022	Eagle River\Hillside	Kathy Privratsky	We live in Stuckagain Heights and have for 25 yr. We do not want to be part of the Eagle River district or south district. We want to support the interests of the East side of Anchorage. We DO NOT SUPPORT map number 12. We DO SUPPORT map 11 or any map that does not have us part of Eagle River. Thank you. Kathy and Ken Privratsky
2/24/2022	Map 12 Allard	Kathy Privratsky	We DO NOT SUPPORT map number 12.
2/24/2022	Map 11v2 Weddleton	Kathy Privratsky	We DO SUPPORT map 11 or any map that does not have us part of Eagle River.

Exc. 0889
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/24/2022	Map 7v2 Hockema	Todd Carroll	<p>Hello,</p> <p>I have lived in various locations including JBER, Eagle River, Chugiak, West Anchorage, NE Anchorage, and the Hillside in the last 40 years so my interest once I looked at the proposals went further afield than I initial expected. With that in mind I have the following comments.</p> <p>Map - Robert Hockema 7.V2 - Makes little sense to me. If you want to know a bit more why, keep reading, otherwise, that is it. I don't support it. It would move Anchorage neighborhoods into the northern communities district 2. Simply geographically speaking this is a dead end for me. How would our Assembly member be attending meetings, including community council meetings on the Anchorage Hillside, Basher, and Northern Communities? How would I attend these meetings? Further, there is a completely different prioritization for someone that lives in Anchorage and drives, rides a bus, bikes, uses trails, or otherwise in Anchorage from someone living in the Northern Communities. I do not commute on the Glenn Highway and don't rely on it as the sole source of road travel to Anchorage. I also don't use Campbell Airstrip road as my sole means to access work and business in Anchorage. I have lived in those areas and they deserve their own separate representation.</p> <p>District 5 should keep Basher.</p> <p>Map 6.v.2 - seems ok. I like that District 6 goes direct down current boundaries and the other districts maintain close to their prior boundaries, although I would have cut district 1 at Northern Lights instead of south to 36th and left that in District 4.</p> <p>Map 11.v.2 Weddleton - seems ok. Similar comments to 6.v.2.</p> <p>Map 11.B - (12?) - prefer 6.v2 or 11v2, but this is ok. I would keep District 3 closer to its current boundaries. Seems like Turnagain is more an airport neighborhood than a downtown neighborhood and south of Cambell Lake, especially south of Klatt is more suited to District 6.</p>

Exc. 0890

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/24/2022	Map 6v2 Anchorage Action	Todd Carroll	Map 6.v.2 - seems ok. I like that District 6 goes direct down current boundaries and the other districts maintain close to their prior boundaries, although I would have cut district 1 at Northern Lights instead of south to 36th and left that in District 4.
2/24/2022	Map 11v2 Weddleton	Todd Carroll	Map 11.v.2 Weddleton - seems ok. Similar comments to 6.v.2.
2/24/2022	Map 12 Allard	Todd Carroll	Map 11.B - (12?) - prefer 6.v2 or 11v2, but this is ok. I would keep District 3 closer to its current boundaries. Seems like Turnagain is more an airport neighborhood than a downtown neighborhood and south of Cambell Lake, especially south of Klatt is more suited to District 6.

Exc. 0891

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/25/2022	Eagle River\Hillside	Diane Schenker	As a resident of the Stuckagain Heights/Basher community for over 25 years, and a lifetime Anchorage resident, I strongly oppose any plan to group our neighborhood with Eagle River, such as redistricting proposal 7. I support proposed redistricting maps 6 or 11, which keep us with adjacent neighborhoods that I visit, shop in, travel through, walk through, and regularly visit. I have not set foot in Eagle River for years, and have no reason to visit it. I will not be fairly represented by any person who is trying to address the needs of Eagle River, since I never go there, and I have no knowledge of or interest in the issues unique to that area. Likewise, my distant neighborhood would get short shrift from someone concerned with the majority of his/her constituents, Eagle River residents, who have no knowledge of or concern for my neighborhood or the areas physically around it. Residents of nearby neighborhoods do come to Stuckagain Heights to hike our trails or just enjoy a sightseeing drive, and therefore care about our road, crime, littering, vandalism, trailheads, wildlife, and other issues affecting all of us who spend time in the area. I doubt that most Eagle River residents even know where we are located, while residents of adjacent neighborhoods like Muldoon and Scenic Park, or anywhere else in East Anchorage are at least familiar with our location. Likewise, I am directly affected by what happens in East Anchorage neighborhoods adjacent to my neighborhood. I visit them daily or at least weekly to shop; I care about the same roads/traffic/transportation issues they do, and we share interest in issues such as location of homeless services in the area, parks improvements, zoning, housing projects, businesses where I shop regularly, and of course, crime. Look at an aerial map of Eagle River's huge, significant physical separation from Stuckagain Heights and tell me that grouping us with Eagle River isn't the very definition of gerrymandering, a blatant effort to rob us of fair representation on our Assembly.
2/25/2022	Map 6 Anchorage Action	Diane Schenker	I support proposed redistricting maps 6 or 11, which keep us with adjacent neighborhoods that I visit, shop in, travel through, walk through, and regularly visit.

Exc. 0892
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/25/2022	Map 11v2 Weddleton	Diane Schenker	I support proposed redistricting maps 6 or 11, which keep us with adjacent neighborhoods that I visit, shop in, travel through, walk through, and regularly visit.
2/25/2022	Map 12 Allard	Britton Goldberg	After reviewing the maps, map 12 seems to be the best of all the presented options. It makes sense, and has fewer strange borders that seem targeted to keep some houses in certain districts arbitrarily.
2/25/2022	Map 11v2 Weddleton	Shannon o'neal	Thank you for the opportunity to comment on draft Assembly maps. I live in East Anchorage and believe that Map 11 does the best job keeping neighborhoods together, and has the district boundaries that will be most easily understandable for local residents. It makes sense for district lines to follow major roadways, and Map 11 keeps JBER together, which is a good thing for service members living on base. Thank you
2/25/2022	Eagle River\Hillside	Greg Groeneweg	Sirs, I have resided in Anchorage since before statehood and have lived on the hillside(area by Hilltop Ski) since 1985. I have turned to my Assembly reps and community counsel from time to time over the years with assistance needed or that I offered. I am very concerned that I would be moved out of my district to Eagle River. That is a different area with different concerns. Please leave our hillside community intact. It is comforting to be connected with my physical neighbors. To be able to share "over-the-fence" so to speak. Please preserve our neighborhood representation. Thank you, Greg Groeneweg

Exc. 0893
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/26/2022	Eagle River\Hillside	Richard Fuller	I am referring to map 6 and map 11. The combining of Stuckagain Heights with Eagle River follows no logical reasoning in regards to infrastructured shared, issues directly affecting both areas, or maintaining voting integrity. Stuckagain Heights needs to remain in District 5.
2/26/2022	Map 6 Anchorage Action	Richard Fuller	I am referring to map 6 and map 11. The combining of Stuckagain Heights with Eagle River follows no logical reasoning in regards to infrastructured shared, issues directly affecting both areas, or maintaining voting integrity. Stuckagain Heights needs to remain in District 5.
2/26/2022	Map 11v2 Weddleton	Richard Fuller	I am referring to map 6 and map 11. The combining of Stuckagain Heights with Eagle River follows no logical reasoning in regards to infrastructured shared, issues directly affecting both areas, or maintaining voting integrity. Stuckagain Heights needs to remain in District 5.
2/28/2022	Eagle River\Hillside	Margaret Nelson	I support putting my neighborhood with the Anchorage Hillside or with Eagle River, as it does seem we have more in common with these neighborhoods. I would have liked to have seen those options. Nonetheless, I do believe the overwhelming support is for as close to the status quo as possible which it appears that is the way the assembly is leaning. However, I object to the carving out of Forrest Dunbar's house to another district. If this passes then I do believe that he should not be able to run again for assembly in a different district.

Exc. 0894
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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/28/2022	Map 11v2 Weddleton	Laura Bonner	I support Map 11 version 2 (Weddleton). It keeps me in a district with my neighbors on the Hillside and South Anchorage. It keeps Stuckagain Heights as a part of East Anchorage while respecting the common community interests of Eagle River and Chugiak. It has compact shapes and uses major roads and thoroughfares as common sense boundaries. The deviation of 4.16% is acceptable. I think it is the best and fairest map proposed.
2/28/2022	Unclassified	Sandra Thompson	As a longtime resident of the Muldoon area, I am in favor of the adoption of Map 11. I have lived in both Fairview and Muldoon in my 50 years in Anchorage. These are culturally diverse neighborhoods, and socio-economically different from Eagle River. Map 11 draws common-sense districts. I believe this map would give each district a fair opportunity to elect representatives that fit their communities.
2/28/2022	Unclassified	Elizabeth(Lizzie) Newell	<p>I live in Independence Park(Abbott Loop CC; O'Malley/Hillside house district; HALO district 1)</p> <p>I have a strong preference for map 11 v2. It was made with community input and it's the best for keeping communities together. The problems with the other maps are as follows:</p> <p>Maps 6-7: Split Morningside Loop neighborhood(between Old and New Seward just south of Scooter) This is a dense neighborhood that probably is multiethnic and which has been underrepresented in the past. To my knowledge, these voters aren't very engaged, probably because their neighborhood has been split for years.</p> <p>Map 7: Fractions of Hillside and of Basher lumped with Eagle River. For assembly members to attend that number of community council meetings(6 in Eagle River 2 in Anchorage) is a logistical nightmare. Along with the impossibility of understanding the issues facing these 3 very different communities.</p> <p>Map 12: Splits Abbott Loop, cutting into the heart of the community council area. Map 11 does split off Independence Park, but it's along the logical boundary of Abbott, the same as the boundary between house districts 11 and 12.</p> <p>The best Map 11 v2: Keeps intact: Morningrise Loop, Abbott Loop, Hillside, and Basher.</p>

Exc. 0895
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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Jo Ann Gruber	<p>After spending time reviewing the four (4) maps, it appears to me that Map 7 is the most reasonable and fair; and it's the one that I support.</p> <p>Since Eagle River and its surrounding areas' populations are too small for a full district, they've always needed to pull population from portions of Anchorage. There are individuals who support leaving areas of Muldoon or other areas of Anchorage out of the district completely. This would be simply unfair to everyone in the Municipality since it would leave District 2 significantly underpopulated and violating the principle of one person, one vote.</p> <p>I live in Eagle River, and I believe it's extremely important to have equally populated districts to ensure that all districts have the same voting power. Leaving District 2 significantly underpopulated would give them more voting power than other districts in Anchorage.</p> <p>I understand that communities in Muldoon have felt disenfranchised by being included in the same district as Eagle River, so it's time to consider another pairing.</p> <p>I believe that Eagle River and the Hillside share much more in common than Eagle River does with any portion of Muldoon. Both communities (Eagle River & Hillside) are mainly rural with larger building lots. Both have limited road service areas and use well and septic systems. In addition, at an assembly meeting last year, I heard Mr. Weddleton and Ms. Allard discuss how similar both areas were.</p> <p>So, for the reasons stated above and the fact that it has the lowest deviation of the four maps still being considered, I support the boundaries proposed in Map 7 Version 2 submitted by Robert Hockema.</p> <p>Thank you for allowing us an opportunity to comment.</p>

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Sandy Blomfield	<p>I have studied all twelve redistricting maps proposed to the assembly. The maps that the assembly has determined as semi-finalists need clarification and clear boundaries. It appears the redistricting process is being fast-tracked by the assembly in an effort to pass, once in a decade redistricting, for the benefit of sitting assembly members rather than for the good of our city. I studied the maps and worked within the confines of the semi-final maps which were pre-approved by the Anchorage Assembly Members who are also THE REAPPORTIONMENT COMMITTEE! Now there is a conflict of interest if I ever seen one! Moving geographical boundaries to secure your own assembly seat rather than what is in the best interest for the City of Anchorage. I do appreciate the considerable time and energy for residents and leaders who did make logical decisions to keep neighborhood boundaries intact. Ethnicity should not be a consideration as it has no relevance within the confines of neighborhoods. People want their representatives to properly decide on issues within congruent neighborhoods and geographical boundaries which include main arterial roads, secondary roads, limited road service districts, and community councils. The Anchorage Hillside and Eagle River residents have made their voices heard regarding placing both communities in the same non-contiguous district. The voices were a resounding NO!</p> <p>Likewise, Anchorage's Downtown needs to remain independent of any other neighborhoods. Release the proposed JBER stronghold by attempting to join our military base within the density of downtown Anchorage. This action does not make sense as the needs of Downtown are far different than the unique needs of JBER Military base. Combining Eagle River and JBER is the solution and meets the population density goals.</p> <p>I strongly suggest an amendment is made to extend the entire redistricting process and do a proper job rather than push this process through prior to the April 5, 2022 Municipal election.</p> <p>Assembly members, please approach this task as the finale of your terms and please do it right! Redistrict the Municipality of Anchorage properly for the next decade, through the 2030 Census.</p>

Exc. 0897

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Chris Twiford	I like 12 best. 11 is good 6 version 2 is acceptable NO WAY on #7
3/1/2022	Unclassified	Robin Brewster	After looking at the maps I am in favor of map 11. As second choice I would pick map 6. I DO NOT support Map 7 at all!! Eagle River should not be combined with Hillside. Keeping Eagle River with JBER makes the most logical sense to me.
3/1/2022	Unclassified	Michael Vechter	Hello, I would like to express my support of two reapportionment maps; Map 6 v2 (by Anchorage Action) – AO 2022-37 and Map 11 v2 (by Weddleton) – AO 2022-37(S-1). These maps consider sameness of areas, and historical placement. I do NOT support other maps that attempt to gerrymander Anchorage to a more conservative minority as a false representation of our fair city. These maps are not legal, do not consider public comments, and are an obvious ploy to entrench a minority position as a force in city politics. Thank you, Mike Vechter.

Exc. 0898

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	LuAnn Piccard	<p>I am a member of the Basher Community Council, living in Stuckagain Heights. Our BCC voted overwhelmingly (65 to 5) to keep Stuckagain Heights with District 5 and NOT to join us with District 2-Eagle River (Map 7-Hockema). Specifically, I favor Map 11 v2 (Weddleton). I feel Map 11 represents balanced and proximate representation across Anchorage. I know this reapportionment process is challenging and I appreciate the hard work of the Repportionment Committee and everyone that has participated in this process.</p> <p>I want to be represented by people that live in Anchorage proper, not people living 45 minutes away in Eagle River. I want representatives who will show up, engage actively, and empathize with, understand and appreciate concerns within and across our adjacent East Side and South Hillside neighborhoods regarding traffic & roads, fire and safety, crime prevention, parks and recreation, and land-use.</p> <p>For example, I do not support a Mass Homeless Shelter at Elmore/Tudor, and I want local representatives who understand the negative impact this \$35M white elephant project will have on the East side of Anchorage and the community as whole. While supporters claim this project will benefit our homeless people, most informed experts agree that no-threshold mass shelters don't work. Smaller, tailored facilities that meet people where they are at, where some level of accountability can be maintained, and that are spread across a community do work. Our experience with Sullivan and Brother Francis/Beans facilities, the people served, and the resulting impacts on the surrounding neighborhoods and community resources provide factual evidence. Why would we support repeating the same doomed approach? Bronson's \$35M megashelter vanity project will increase traffic incidents/deaths along one of our busiest and most dangerous traffic corridors. It will increase crime and safety issues for 10,000's of residents living in adjacent neighborhoods, at UAA APU, and healthcare facilities, and will compromise recreational facilities and trails nearby. It will increase the already dangerous wild-fire risk on the Hillside. It will simply transfer to East Anchorage the very same issues that we've seen at Sullivan and Brother Francis/Bean's locations. So far the concerns voiced by experts and the people most impacted have been met with indifference and fallen on the deaf ears of the current D2 representatives.</p> <p>The current representatives from D2 Eagle River have demonstated that they don't care about East Anchorage. They do not listen to or appreciate our concerns, despite significant public testimony at Assembly meetings and other forums when these issues have been discussed in depth. In fact I have never heard either</p>

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Leon Jaimes	<p>Hello, I support pairing Eagle River with Hillside in order to ensure that the district is as close as possible to 48,541 people. I oppose pairing Eagle River with Muldoon or Downtown because those are demographically different than Eagle River. The 2020 Census shows that Eagle River is 76% White, it shows that Muldoon is only 43% White. If we assume that the current Assembly Member from Eagle River accurately represents Eagle River right now, with ties to white supremacist groups like the Three Percenters, and with defensiveness of hateful symbols such as license plates that celebrate Nazi's then it would not make sense to pair an area with a large percentage of non-White people with a community who has elected a representative who is a threat to them. While this is certainly an unfortunate circumstance, and we would all hope to have an anti-racist Assembly Member for every district in our Municipality, we can not escape the racist reality in which we find ourselves.</p> <p>In conclusion, I will share some quotes from the private Save Anchorage group which Member Jamie Allard is a member of. These were in response to a story in the Alaska Watchman about the non-partisan group The Alaska Black Caucus who was organizing a march in September 2020 to commemorate the 57th anniversary of the March on Washington.</p> <p>G.O. said: "Wow. I cant believe just how many supporters of the terrorist organization there are in alaska"</p> <p>T.T. said: "So they think we have some store to loot? That won't go well for them."</p> <p>C.B. said "They better not come here at all if they know whats good for them!"</p> <p>C.P. said "lets meet them on the other side of the street.....we are not Calif. They showed up in other places and they were meet with guns, we can do the same" AND "Black lives don't matter, you are rioters not protesters"</p> <p>T.K. said "September 7th makes sense. Night has returned to Alaska. Easier to cause mayhem under the cover of darkness. BLM: Burn, Loot and Murder."</p> <p>P.W. said "Just a reminder to this BLM group. We are not Seattle or Portland. As much as our Mayor would like us to be."</p> <p>L.A. said "We are also heavily armed."</p> <p>T.K. said ""I have a dream! I dream of a country where a black man can loot Walmart and Target stores and there are no oppressive white police around to stop him!""</p>

Exc. 0900

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Barbara Gingell-Farris	I urge you to keep Muldoon and any area in East Anchorage out of the Eagle River apportionment. Eagle River has nothing in common, socio-economically, with those of us who live in Muldoon. We don't share the same services, stores or recreational opportunities. We in Muldoon are a diverse population. And including Muldoon with Eagle River, white-washes and dilutes that diversity. Please consider adding a portion of the hillside to Eagle River. They are more similar physically and socio-economically to Eagle River.
3/1/2022	Unclassified	Julie Barrow	After carefully looking at each proposed map, I believe map 11 would be the best choice for Anchorage Residents. Map 7 is absolutely ridiculous and should be thrown out, combining Hillside and Eagle River would be a the last two I would even think about combining.
3/1/2022	Unclassified	Jeffrey Sperry	Weddleton Map 11 v2 is the best choice of all of the maps. It maintains the current districts as much as possible and is very reasonable. It is the map that should be chosen above all of the others All of the other maps should be thrown away.
3/2/2022	Unclassified	Sandy Blomfield	Endorsement of Map #11, V3 with minor accommodations to keep neighborhoods intact

Exc. 0901
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/15/2022	Unclassified	Jonathan and Margaret Isaacs	<p>March 14, 2022</p> <p>Dear Assembly Members: Re: AO 2022-37(S-1) Assembly Redistricting of Turnagain and West High Neighborhood</p> <p>With regard to Ordinance No. AO 2022-37(S-1), we are contacting you to express our opposition to include the Forest Park Drive-West High neighborhood, west of Minnesota Drive and south of Westchester Lagoon, in the Downtown Assembly District as part of the redistricting process. We have lived at our current address for the past 45 years.</p> <p>Our neighborhood has had nothing in common with the Downtown District for decades. During that period, we have been actively part of the Turnagain District and neighborhood, participating in neighborhood issues related to West Northern Lights Blvd traffic, Ted Stevens International Airport, Fish Creek and Turnagain Bog Wetlands, and Safe Routes to School Committees, among many other Turnagain area issues. Our community involvement is consistently reflected in Turnagain Community Council records. The character of our neighborhood – residential single family and duplex housing stock, lot size and zoning - has more in common with the Turnagain area than the Downtown area. In talking with our friends and neighbors, few are aware of the proposed assembly district change and how it will affect our neighborhood; once informed, they are uniformly opposed.</p> <p>We sympathize with the difficulties faced by the Assembly in the redistricting process, and understand that the current proposed redistricting leaves a lot of people dissatisfied. We have nothing but respect for the Downtown Assembly members, but feel that our neighborhood interests have been and will remain best represented by our two West Anchorage Assembly members. Therefore, we request that the assembly district boundaries for our neighborhood remain part of Assembly District 3, rather than as shown in Assembly Redistricting Map 11V2. Thank you for your time and consideration.</p> <p>Respectfully Jon and Marnie Isaacs 2418 Forest Park Drive Anchorage, Alaska 99517 isaacs@gci.net</p>

Municipality of Anchorage--Reapportionment
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Date	Topic	Commenter	Comment
3/15/2022	Unclassified	Cami Dalton	I realize that it is complicated and messy and is never going to be perfect, but after reviewing all the maps, complaints,etc, I am in favor of the reapportionment maps devised by John Weddleton.
3/15/2022	Unclassified	Less Hultquist	I want map 11 first to be approved and/or then map. 6 but NO WAY map 7
3/16/2022	Unclassified	Shelly Dalton	My vote is map 11... Seems very commonsensical and no on map 7!!
3/16/2022	Unclassified	Brenda Bergsrud	I would like to testify in favor of Chris Constant's amendment. I believe that this amendment takes into consideration public testimony as well the concerns that the Assembly members identified in work sessions. It is responsive to public testimony that asks for Turnagain to remain whole in West Anchorage, it keeps East Anchorage whole, and puts East High in East Anchorage, and keeps Rogers Park and upper Airport Heights in Midtown. Please accept the amendment put forward by Chris and continue the process so that we can move forward with the election of our new downtown assembly member.

Exc. 0903

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/16/2022	Unclassified	Timbi Barron	I support Christopher Constant's amendments to Map 11.
3/17/2022	Unclassified	Barry Piser	<p>I would like support the Constant Amended Map 11 v2. This amendment takes into consideration public testimony and concerns identified during community work sessions. The amendment summary does a good of job of highlighting the reasoning and positive outcome: moving three high schools back into their namesake districts.</p> <p>I am specifically opposed to the Kennedy Amended Map 11 v2. This amendment shows a lack of understanding regarding community identity in the proposed areas of change, while illegally splitting census blocks.</p> <p>Please accept the amendment put forward by Assemblyperson Christopher Constant. As a resident of District 1, please move forward as quickly as possible so that my district can achieve the equal representation that was overwhelmingly approved by Anchorage voters in 2020 with the passage of Propostion 12.</p>
3/17/2022	Unclassified	Tiffany Ma	<p>I would like support the Constant Amended Map 11 v2. As a mother of three children, I like that three high schools back into their namesake districts.</p> <p>I am specifically opposed to the Kennedy Amended Map 11 v2. As a former resident of College Village until 2020, I can see those working on this amendment do not understand some of the neighborhoods they propose splitting.</p> <p>Please approve Christopher Constant's amendment of Map 11v2. As a District 1 resident, I ask that you move quickly so that my district can have equal representation as intended by the passage of Propostion 12 in 2020.</p>

Exc. 0904

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Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/18/2022	Unclassified	Sheri Whitethorn	Dear Anchorage Assembly: I have heard generally good comments about the Reapportionment Map 11 V2 Constant Amendments in the various sections that are proposed for changes from that, with the exception of the proposed change to the Airport Heights area. Please do NOT accept this section of the Constant Amendment. Dividing Airport Heights in two does nothing helpful for the neighborhood or for Anchorage as a whole. Either leave this area as it currently is in Map 11 v2, without this amendment, or amend this section of the amendment's map in this area of town to make Northern Lights BLVD. the straight dividing line from West/District 3 through Midtown/4 all the way to District 3/East. This would make for clean, easy to understand and follow lines between districts. Because we are adding a new Assembly member to District 1, this reapportionment is more broad than the more usual tweaks that are done every ten years. Let's do this carefully in ways that make sense for specific areas as much as possible, while taking a broader view of what works best for Anchorage as a whole. Thank you all for your diligent work on this big project.
3/18/2022	Unclassified	Gretchen Stoddard	<p>Thank you for all your work. It sounds like a lot of productive discussion in the reapportionment meeting this morning, that was adjourned at 3/18/22 by 10:50 or soon before 11 am. I am very appreciative the meeting is available online for viewing, thanks.</p> <p>Can we please have an update to the reapportionment timeline on the website? This is in Timeline and Participation Options. I told some people the wrong time for the reapportionment meeting today. That is not a significant problem, but I am not sure where we are going on the meetings. When I look now, 3/18 afternoon, I see a "2022-0228, Updated Reapportionment Timeline.pdf" This appears to be a press release from 2-28-22. It says there is a worksession today at 1 - 3 pm, and I think the meeting was adjourned before that time.</p> <p>Current information I see from the Muni Reapportionment website. This is a cut & paste from the Muni Reapportionment website I see now and the time of the 3/18 meeting probably changed. Not a problem, but it would be great to confirm the path forward here: - March 15: Public Hearing #3 at Regular Assembly Meeting, 6pm at Assembly Chambers at Loussac Library • March 18: Assembly Worksession on Reapportionment, 1-3pm at City Hall, Suite 155 • March 23: Special Assembly meeting re: Reapportionment and process for filling new Assembly seat, 6pm at Assembly Chambers at Loussac Library.....</p>

Exc. 0905

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/20/2022	Unclassified	Yarrow Silvers	<p>I am strongly opposed to the Meg/Felix amendment for a couple reasons.</p> <p>This amendment was turned in after the public comment period, limiting public participation. Furthermore, unless someone specifically goes to the committee page, they would have no idea that this amendment had even been introduced for consideration as it is past the agreed upon and publicized period for introduction. This is way too important of a process to have last minute amendments sprung on the public, that they are unable to fully participate in. I oppose this amendment as well as any other last minute amendments, particularly anything that may be brought up during the assembly debate process.</p> <p>In the state redistricting process, the senate pairings were brought to vote without public comment, damaging public trust by springing on the public a gerrymander that the board knew would be unacceptable to the public; the courts found that this action was a violation of section 10 and remanded the maps back to the board to be redrawn. Please do not make this same mistake in your process.</p> <p>I also oppose this map because of the finger carving apart diverse neighborhoods in East Anchorage. This has the appearance of a gerrymander. East Anchorage is tired of fingers, tired of being gerrymandered, and tired of being treated as 2nd class citizens because of our largely low income residential status.</p> <p>I am in support of Chris Constant's amendment because it ticks all the boxes for the requests by the different areas of town - upper Airport Heights and Rogers Park in Midtown, East high, Bartlett and the Muldoon corridor in East Anchorage, and West High/Forest Park in West Anchorage, while keeping districts compact and with lines that make sense. I like the way East Anchorage appears very compact with no fingers or gerrymanders. After a multitude of public and assembly input that upper Airport Heights has a distinct Midtown identity, it defies reason that it has suddenly been thrust into downtown in this last minute amendment.</p> <p>Thank you for your consideration and for your hard work in this process. I continue to invite assembly members to consider Anchorage as a whole and to consider the importance of following a proper process, rather than approaching this with a Laser like focus on their own districts.</p> <p>Yarrow Silvers</p>

Exc. 0906

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/21/2022	Unclassified	Andrew Gray	I support Constant Amended Map 11 V2. I agree with the logic of restoring high schools to their namesake districts. Although the Kennedy Amended Map 11 V2 also restores high schools to their respective districts, the deviations benefit District 2 at the cost of all other districts; the Constant version benefits District 1 and 5 as well as District 2. To my mind, it is not fair to have a map that only benefits one district. Please note, I live in District 4 which actually is much closer to the goal number on the Kennedy version; so my comment is not selfish -- I still prefer the Constant version. I also believe that more than enough time has been given for consideration of the maps (almost three months with 16 different chances for the public to testify); I do not believe that additional time would make much difference at this point. I encourage the Assembly to vote yes on Constant Amended Map 11 V2.
3/22/2022	Unclassified	Michael Schechter	I am a West Anchorage resident and I support the Constant Amended S-1 as the best map for ensuring current communities are represented as districts. Kennedy S-1 makes the problems of the prior round of mapping worse and seems designed solely for the benefit of Eagle River rather than Anchorage as a whole.
3/23/2022	Unclassified	Irene Bortnick	As a 33 year member of the Roger's Park Community Council, I ask that you adopt AO 2022-37(S-1), Constant Amended Map 11 v2. The RPCC has been an active and engaged council for many years and it should be kept intact. In addition, keeping the high schools in the districts they are in now is important. It is time to take a vote and finalize the map. The more delays, the more amendments are proposed which leads to more delays. The public has had enough time to weigh in. The committee has had enough time to debate.
2/6/2022	Eagle River\Hillside	Julie Coulombe	The Board of HALO has passed, with unanimous vote, the attached resolution against combining any or part of the Hillside with Eagle River (District 2).

Exc. 0907
Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/13/2022	Eagle River\Hillside	Ann Rappoport, Co-chair	<p>RESOLUTION AND COMMENTS FROM THE RABBIT CREEK COMMUNITY COUNCIL ON THE 2022 ASSEMBLY REAPPORTIONMENT PROCESS</p> <p>At our February 10, 2022 meeting, the Rabbit Creek Community Council (RCCC) discussed draft maps currently under consideration for the required Assembly Reapportionment process. In doing so, the RCCC reminds the Assembly Reapportionment Committee that: legal requirements compel the Committee to create districts which are "compact and contiguous territory containing as nearly as practicable a relatively integrated socioeconomic area" (Municipality of Anchorage Code of Ordinance, Part I, Article IV, Section 4.01). By a vote of 26 yeas, 3 nays, and 1 abstention, RCCC approved the following resolution:</p> <p>RESOLUTION</p> <p>The Rabbit Creek Community Council:</p> <ul style="list-style-type: none">• Affirms that the re-apportionment closely follow the legal requirements to create compact, contiguous, and socioeconomically integrated districts.• Opposes combination of any portions of the Hillside with Eagle River.• Emphasizes that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area.• Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/13/2022	Map 10 Wells B	Ann Rappoport, Co-chair	• Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River
2/13/2022	Map 9 Wells A	Ann Rappoport, Co-chair	• Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River
2/13/2022	Eagle River\Hillside	Ann Rappoport, Co-chair	While maintaining a low population deviation between districts is of obvious importance, it is not outlined as a consideration in Section 4.01, and therefore should not be granted more importance than the criteria that are included in Municipal ordinance. Respecting neighborhood continuity is more important than pushing for the smallest deviation in size of each Assembly district and will best achieve fair representation. We do appreciate the difficulty of this effort.

Exc. 0909

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
2/21/2022	JBER	Rachel Boudreau	Please see the attached resolution from the Northeast Community Council. Resolution 2022-01 Northeast Community Council (NECC) January 20, 2022 Assembly Reapportionment WHEREAS, the Northeast Community Council (NECC) is the Community Council that is the voice of the people of Northeast Anchorage and includes the following boundaries: Northeast Community Council 8 WHEREAS, according to Census data, Northeast Anchorage has one of the most ethnically and racially diverse populations in the United States; WHEREAS, according to Census data, the Northeast Community Council area has a population of 29,266; WHEREAS, The target population per district is 48,541. The total deviation in actual population to target population must be less than 10% (federal law), and ideally less than 50/0. WHEREAS, Northeast Anchorage is a distinct and socioeconomically integrated area with strong neighborhood identities very different than that of Eagle River; WHEREAS, Northeast Anchorage is home to many active-duty service members and Veterans who frequent the businesses and services provided along Muldoon Rd and near the Joint Base Elmendorf Richardson (JBER) Muldoon Rd. gate, WHEREAS, in the past, portions of Northeast Anchorage have been included within the Eagle River district that is not socioeconomically similar and have very different legislative interests; NOW, THEREFORE BE IT RESOLVED the NECC respectfully asks the Anchorage Assembly to: 1. Protect our and maintain our ties by including the entire NECC boundaries within one Assembly District; 2. Include Bartlett High School in our District to keep it connected to the families it serves. Date: January 20, 2022 Votes for: 10 Motion Passes President: Votes Against: 0 Abstain: 1 Motion Does Not Pass Secretary: T'Shalla Baker Rachel Boudreau
3/1/2022	Unclassified	Margaret Nelson	The Basher Community Council supports maps 6 and/or 11, per the attached resolution. We appreciate your consideration of the community's position. FYI about 70 people in the community were surveyed and the vote was overwhelming that the Stuckagain Heights area served by the Basher Community Council remain within Anchorage proper.

Exc. 0910

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/1/2022	Unclassified	Margaret Tyler	Please see attached resolution from the Girdwood Board of Supervisors
3/18/2022	Unclassified	Gretchen Stoddard	<p>Dear Chair LaFrance and Assembly Members:</p> <p>Huffman O'Malley Community Council thanks you and the reapportionment committee for the work toward redistricting efforts. After looking at the Amendments submitted and active on 3/17, we voted to strongly support the Weddleton map 11 v2.</p> <p>HOCC has monitored and commented on the redistricting process. We have studied each proposed map, and would take this opportunity to thank you for listening to our community concerns. The Huffman O'Malley Community Council had our monthly meeting on Thursday 3/17 starting at 7 pm. We voted unanimously to support the Weddleton map 11 v2. Thank you. Gretchen Stoddard Huffman O'Malley Community Council President</p> <p>Note/ Addition on 3/18. I apologize to the community and community council members. Last night (3/17 or 3/18 am) I thought I entered comments before the apportionment committeee meeting on 3/18 am. I did not successfully enter the comments correctly, and that was my operator error when using the commenting website.</p> <p>Our community council members evaluated 3 maps at our 3/17 meeting. We thought that was the total of the current maps. We evaluated (Weddleton) Map 11 v2; Kennedy S1 map 11 v2; and Constant S1 map 11 v2. I now see an addition to the website with an amended map from Zalatel Rivera S1 map 11 v2, and our council did not evaluate that map. If this is a current map to evaluate, we would appreciate a view of that map, but it seems these changes are north of our community council area and district. Thank you.</p>

Exc. 0911

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Municipality of Anchorage--Reapportionment
Public Comment Portal Comments

Date	Topic	Commenter	Comment
3/21/2022	Unclassified	Anna Brawley	<p>This comment is re-affirming Turnagain Community Council's priorities and position on AO 2022-37, Municipal Reapportionment, and amendments to be considered at this Wednesday's special meeting. Our original testimony is re-attached, expressing concerns with the current map under consideration (Map 11 v.2, Constant Amendment S-1) and also with Map 12, which has since been archived. Our original testimony at the March 1, 2022 meeting is attached for reference.</p> <p>Turnagain Community Council supports the proposed changes in the Constant amendment to restore the West High and Forest Park area of Turnagain in District 3, and opposes the increased amount of community council area removed from District 3 in the Kennedy amendment. We urge the Assembly to adopt the Constant amendment in the final map.</p> <p>Our reasons for supporting the Constant amendment are outlined in our original testimony, because we support keeping our community council area within the same district, and this particular area is strongly integrated with and identified as an important part of West Anchorage. Similarly, while the Kennedy amendment does not go as far as the prior Map 12 did in splitting up our district, it removes more of our council area from District 3, which conflicts with keeping our council area within one district.</p> <p>Again, we urge the Assembly to adopt the Constant amendment, then promptly approve that amended map as the final Reapportionment maps for Anchorage for the next decade.</p> <p>Thank you for the opportunity to engage in this thorough and complex process, and finding a balance that promotes fair representation in Anchorage.</p>

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 7:33 am

First Name: **Carleta**

Last Name: **Schroeder**

Group Affiliation, if applicable: **none**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Senate pairings in Eagle River**

Public Comment: **I have been a resident of Eagle River for over 10 years. I am very much AGAINST any Senate pairing that puts my house with downtown Anchorage instead of with my community and neighbors. Our home is immediately across the street from the other House seat which I consider my community. I want to be represented by someone who represents the issues of my community. Eagle River should be paired with Eagle River. Thank you.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 10:58 am

First Name: **Joelle**

Last Name: **Hall**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Senate pairings**

Public Comment: **I am listening to the public comment being given on April 5, 2022 and want to make some observations about the characterizations of previous ER pairings with Anchorage. In previous decades ER did not have enough populations to justify having a single senate seat. As a result of the 2020 census ER now has enough population to have their own seat. I live in this Senate seat and can see no justification to pair my house (24) with 23 (Muldoon JBER Govt Hill) when I can be paired with 22 the other half of my community ER/Chugiak. There is NO reason to break apart ER. We have sufficient population to merit our own seat, we are contiguous, shop at the same stores and go the same schools. Observations about previous decades pairings are moot in 2022 based on the fact that our community has enough population and does not need to pull from Anchorage or the Valley to make a whole senate seat. What is the opposition to pairing ER with ER? Any justifications to break up my community are unjustified.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 12:24 pm

First Name: **Kevin**

Last Name: **McClear**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Senate paring for Eagle River (House 24 and 22)**

Public Comment: **I live in the Eagle River valley. My Senator should represent both the town center that I am closest to, House District 22 and the residential district I live in, House District 24. Eagle River Police and Fire services, Eagle River access to the Glenn Highway, and Eagle River/Chugiak parks are all much more relevant to my life than the services and parks of House District 9.**

My community deserves representation based around my neighborhood, not to be paired with a community an hour away by car. Please pair House Districts 24 and 22.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 2:44 pm

First Name: **steve**

Last Name: **gerlek**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable):

Public Comment: **I do not support redistricting Downtown Anchorage and Government Hill into a senate district that primarily represents the rural communities of Chugiak, Eagle River, and Eklutna. The effect of this will be to suppress the voice of many Alaskan families that live in our states urban core. The only fair pairing is House District 23 to House District 17.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 3:08 pm

First Name: **Stephanie**

Last Name: **A Kesler**

Group Affiliation, if applicable: **None**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Government Hill House District gerrymandered to Eagle River**

Public Comment: **Please end the mind blowing gerrymander that links Downtown Anchorage and Government Hill to a senate district that primarily represents Chugiak, Eagle River, and Eklutna. It is a blatant attempt at diluting Government Hill and Downtown and results under-representation of our issues and concerns.. We have to drive through three house districts to connect with another populated section of our district at the far edge of Muldoon and then 25 miles to the next population in our district - which is absolutely ridiculous and unconstitutional. Clearly, the obvious fair and constitutional pairing is House District 23 to House District 17.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 6, 2022, 11:42 am

First Name: **Cindy**

Last Name: **Allred**

Group Affiliation, if applicable: **Government Hill resident**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Government Hill pairing**

Public Comment: **Dear Redistricting Board,**

I am a resident of Government Hill and I support the logical choice of pairing Government Hill with downtown Anchorage.

I do not support Government Hill being paired with Eagle River. The two areas are very diverse and it doesn't make sense.

Best,

Cindy Allred, Government Hill resident

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 6, 2022, 12:00 pm

First Name: **Michael**

Last Name: **Coumbe**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Keep Downtown Anchorage in Same Senate District**

Public Comment: **Downtown Anchorage has been separated into two House Districts by this Redistricting Board. As a resident in this part of town for more than 30 years, this makes no sense to me. However, since this wrong choice appears to be moving forward, the right choice for a Senate district is to keep downtown all in one district. I live downtown. I work downtown. I walk downtown. Downtown Anchorage is one compact and historic part of the city. Please do not separate this core of the city into separate Senate districts. Maintain Downtown Anchorage in one Senate district. Thank you.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 9:59 am

First Name: **Jo Ann**. Last Name: **Gruber**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern: **Support for Option 2 Anchorage Senate Districts**

Public Comment: Dear Alaska Redistricting Board Members,

I support the 2022 proposed pairings that are shown on the Option 2 map. It contains the most logical, fair, and equitable pairings.

I've watched the board meetings and have reviewed the two proposed Senate district revision maps that were unanimously adopted by the Board yesterday. Here are just a few of the reasons why I support Option 2 and oppose Option 3B.

- I live in Eagle River, and I support pairing Eagle River with Eagle River. I also support keeping downtown Anchorage paired together and keeping the Hillside paired together. These pairings make the most sense. The pairings in Option 3B do not make sense to me and appear to be more of the same political gerrymandering that got us to the point we find ourselves in today.

- I've heard and read many testimonies from those not wanting to be paired with Eagle River; and frankly, I don't blame them. A small, vocal group in my community wishes to secede from Anchorage and has made some very disparaging remarks about the rest of Anchorage. That small, vocal group does NOT represent the view of everyone in our community; but they certainly are the ones being heard. It's no wonder that people in Anchorage don't want to be paired together with another community in the Municipality that appears to have little to no respect for them.

- Chugiak/Eagle River doesn't have a reasonable claim to JBER either. Military members and their families, who do not live on JBER, live in various areas throughout the Municipality of Anchorage. People who live on JBER frequent businesses throughout Anchorage, too.

For these reasons and others, I urge you to adopt and approve the Option 2 pairings. Please show that the Board is committed to providing fair, equitable, non-gerrymandered Senate pairings.

Respectfully,

Jo Ann Gruber

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 11:33 am

First Name: **Kelley**

Last Name: **Russell**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99507**

Issue of Concern (Please provide map name if applicable):

Public Comment: **I want to share my thoughts on senate pairings within Anchorage. I currently live in proposed House District 12 in the Abbott Loop area and have been in this district over two decades. I work off of Muldoon, doing therapy with Veterans. My patients live all over Anchorage, Eagle River, JBER and the Matâ€ Su valley and so I get to see socioeconomic variances in patients from specific areas.**

I support Option 2 for the following reasons:

1. Districts 20 and 21 in Muldoon make sense together due to their shared shopping, Bartlett High School, recreation areas.

2. Districts 24 and 22 both in Eagle River make sense together due to their shared shopping and recreation areas. They are buffered from the City of Anchorage from many miles of nonresidential land along the Glenn. In my work with former service members, while there are some service members who live in Eagle River, the same can be said for many areas of Anchorage. It isnâ€™t enough to warrant pairing districts 23 and 24 over pairing Eagle River with itself.

3. District 9 (Hillside) should never be combined with an Eagle River district. They share no common roads or schools. They merely share an uninhabited mountain range, a tenuous connection at best.

Thank you for hearing my concerns.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 12:19 pm

First Name: **Alex**

Last Name: **Baker**

Group Affiliation, if applicable: **Self**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Option 2 support**

Public Comment: **I support option 2. As a resident of HD 17, the best senate pairing from my community is HD 23. Additionally, pairing South Anchorage (and Girdwood and Whittier!) with Eagle River makes little to no logical sense. It has the appearance of a partisan gerrymander and its adoption would compromise the integrity of the redistricting process.**

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 2:57 pm

First Name: **John**

Last Name: **Gruber**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Anchorage Senate Pairings - Support for Option 2**

Public Comment: **I have lived in Eagle River for 46 years. I'm writing in support of the senate pairings shown in Option 2.**

I support keeping the two Eagle River house districts together. It also keeps the Hillside communities together as well as the downtown Anchorage communities. Option 2 is the most reasonable, non-partisan option of the two options proposed.

Option 3B, which I do not support, appears to be another politically motivated gerrymander that was generated by someone utilizing partisan data along with information about incumbents.

I encourage you to adopt Option 2.

John B. Gruber

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Erik Gunderson [REDACTED]

Thu 4/7/2022 7:15 PM

Dear esteemed members of the Alaska Redistricting Board,

To start, I'd like to thank you all for the extensive work you have done on the current house district map and your continued efforts to find a fair and constitutional plan for Anchorage's senate pairings. I know this is a herculean task and I am deeply grateful for your service to our state.

I am writing today regarding the proposed senate pairings adopted by the board. I'd like to start by saying I celebrated my first Birthday in Eagle River and have called it home for nearly 28 years. From personal experience, I can say that the idea that Eagle River should be paired with South Anchorage seems outrageous to ordinary Eagle River - Chugiak residents, including myself.

As can be noted in the Anchorage Municipal redistricting process, there was broad opposition to pairing these communities together with overwhelming testimony that these communities have little in common, do not live, work, or play in the same areas, and are not logical pairings. In fact, the few members in Eagle River who recently have called in to testify whose name's I recognize were among the loudest champions against these pairings during the municipal redistricting process. It seems that the only justification for such a pairing is to benefit a specific political interest at the expense of the Alaskans, which is antithetical to the duties of the Alaska Redistricting Board and why the Alaska Supreme Court threw out the prior Eagle River - Muldoon district.

The most logical, and I believe what the Alaska Supreme Court indicated would be more constitutionally sound, would be pairing the two Eagle River house districts, #22 and #24, together (as has been the case since 2013 with great success and no complaints from community members.) Of the current maps, Option 2 seems to be the best and I strongly encourage members to adopt this or another map that keeps Eagle River - Chugiak intact as one Senate District.

Respectfully,
Erik Gunderson

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

William Dougherty <[REDACTED]>

Thu 4/7/2022 10:46 AM

To the Redistricting Board:

My name is William Dougherty. I am a resident of Anchorage. My home is just off Upper DeArmoun Road in South Anchorage.

I'm taking time from a very busy day to write to oppose the ill-intentioned and unconstitutional redistricting proposal to pair Eagle River with South Anchorage. This is such a transparently partisan effort to increase Republican control of the Anchorage legislative delegation that you should be ashamed, but apparently that does not come naturally to you.

Allow me to state, as many already have, the blindingly obvious:

Eagle River voters should be with Eagle River voters. There is no legitimate justification for splitting them except to try to increase their political power by suppressing the political influence of other voters with entirely different interests and needs. If you attach Eagle River voters to South Anchorage, using the specious argument that they are "contiguous" – contiguous except for the huge wilderness between them – you will effectively disenfranchise myself and my neighbors. A politician who depends on majority support in Eagle River is not going to represent my interests. This would be an act of political sabotage done without any concern for the rights to which I am entitled under both the state and federal constitutions. Does that mean nothing to you?

So, I oppose Option 3B (the "Reudrich/Marcum plan") and support Option 2.

I understand you've received some testimony arguing that South Anchorage and Eagle River north are "similar" because we have limited road service areas. This is ludicrously irrelevant, but it's also a distortion. Both Eagle River house districts have the same service area -- called Chugiak, Birchwood, Eagle River Rural Road Service Area (CBERRRSA). South Anchorage has completely different road service areas -- multiple Limited Road Service Areas -- with no connections between South Anchorage and Eagle River.

I've also heard the absolutely asinine argument that because there is a moose hunt in the Ship Creek valley, that constitutes common ground for residents of Eagle River and South Anchorage. Are you kidding? That is a contention so dumb the only consideration it deserves is ridicule.

If you are familiar with Anchorage, you know that people in Eagle River and South Anchorage do not regularly work, shop or play together. People from Eagle River do work and shop in Midtown and downtown. People from Anchorage – downtown, midtown or South Anchorage – do not work or shop in Eagle River. I personally haven't been to Eagle River for any purpose, except to drive through on my way north, in the last 20 years. Eagle River does not have anything I want or need that I can't get far closer to home.

Similarly, the people of Eagle River seem to view themselves as Eagle River residents, as much or more than as Anchorage residents. Some ER residents are proposing to completely separate

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Eagle River from the municipality. I'm not sure how I feel about that in general, but it would be irrelevant to South Anchorage in particular.

I resent the three obviously partisan Republicans on the redistricting board for their relentless effort to gerrymander, to disenfranchise, to cheat – and that's what it is: cheating. It's anti-democratic, unpatriotic and purposely hurts real, live, human beings. Why can't you just straighten up and do the right thing?

Keep Downtown together, Hillside together and Eagle River together. Don't split apart communities for partisan purposes. The obviously rational pairings are 20/21 and 17/23 and 22/24 (Eagle River).

I can see that you're trying to use a map drawn by a professional partisan using partisan data. I've been watching Randy Ruedrich do this for 30 years. His plans are your plans. His plans were the pairings the court threw out as an unconstitutional gerrymander. Don't replace one of his gerrymanders with another.

Before moving to South Anchorage, I lived on Government Hill for 20 years, then I became the landlord for a rental property there for another 20 years. I have had a wide variety of tenants, from newspaper reporters to lawyers to soldiers. Government Hill should not have an Eagle River senator. An Eagle River senator cannot adequately represent an affluent rural district and an urban, commercial and industrial district. To split downtown along 4th Avenue with the north half effectively under the political thumb of an entirely different kind of community 30 miles away would be, in my judgment, a form of civic vandalism.

Instead of these cockamamie plans, you should follow the direction of the court. Only change the affected districts and those touching them. Making major, unconnected or controversial changes such as pairing Eagle River and South Anchorage only invites additional lawsuits.

I could go on, but I need to get on to my other responsibilities.

Sincerely,

William Dougherty

A black rectangular redaction box covering the signature of William Dougherty.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 9:24 pm

First Name: **Sean**

Last Name: **Murphy**

Group Affiliation, if applicable: **Eaglexit**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern: pairing of Eagle River communities with Anchorage

Public Comment: I am a resident of House District 22-Eagle River Valley under the promulgated 2021 redistricting plan.

I came to Alaska while serving in the Army. I met my wife in 1989 and we started a family in East Anchorage. We moved to Eagle River with two daughters 22 years ago. I am a retired Anchorage School District educator and administrator. We enjoy our time with two grandchildren who live in the Matanuska-Susitna Borough with their parents.

I am testifying on behalf of Eaglexit because I feel very strongly, as an Eagle River resident and an active volunteer in promoting the interests of Eagle River, that Eagle River districts should be paired with one another and our unified and very independent community preserved.

The Eagle River community is a unique unified community with interests and priorities that do not align with the other districts in Anchorage.

Based upon my personal experience and knowledge, the physical separation between Eagle River Valley and South Muldoon Road is very real. Not only are these two areas separated by about 15 miles and a stretch of highway, two bodies of water (a creek and Eagle River) and a sizeable valley, there is no way to get from here to there, or vice versa, without going through another district. Eagle River is our own community, boxed in between JBER and the Chugach Range and separated from Anchorage with the only bridge on the highway system that connects North Alaska and South Alaska. This connection is part of Eagle River's culture and commerce, but not at all a part of Anchorage.

Eagle River Valley and South Muldoon are very different places socially. It is my opinion that Eagle River residents are generally more affluent and educated per capita than East Anchorage and that Eagle River residents have the same or very similar religious beliefs, which can be seen in Eagle River's many long-standing churches.

Eagle River has its own commercial and cultural center. The store owners rely upon Eagle River resident shoppers, out-of-state tourists, and customers traveling from Anchorage to

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

the Valley. Eagle River businesses do not rely upon Anchorage customers.

Unlike Anchorage, Eagle River commerce continued to grow and thrive.

I am also very proud of the clubs, organizations, festivals, and activities that Eagle River sponsors and maintains. We have an Eagle River Elks Club, a VFW, and a Lions Club. It is Eagle River residents that support and rely on these clubs, not residents of Anchorage.

Culturally our community is different with its own Chamber of Commerce. We have the Bear Paw Festival during the summer. Boy Scouts still put up USA flags on our downtown strip. We are on the Iditarod historic trail, where the original dogs ran serum to Nome over the Crow Creek Pass from Girdwood to the Eagle River Science Center at the end of Eagle River Valley, almost. The holidays bring us the Merry Merchant Munch which has a long history of highlighting our local Eagle River businesses.

Economically, we have more land to develop than Anchorage. We have a separate Parks and Rec Department with its own budget separate from Anchorage. We have a private partnership with a local company to maintain roads. Most of our communities are covered by a volunteer fire department. Our homeowners love their larger properties. While Eagle River residents live in housing that includes large lots, zero lot lines, and apartments, Eagle River does not have many trailer parks or homeless camps.

We have six Eagle River area Community Councils, the majority of which are very active in promoting and preserving the interests and needs of Eagle River residents.

I thought Anchorage and Eagle River were separated and different before I even realized it. I would explain to family and friends visiting from all over, who voiced their disbelief when I explained our communities out here are all under the Municipality of Anchorage.

Our school's communities have different needs. I saw first hand as an educator in Eagle River then as an administrator on the east side of Anchorage. Take a walk-through Chugiak or Eagle River high schools, then walk through Bartlett High School. The needs are different.

As an administrator on the east side and a resident in Eagle River, I saw road maintenance was different. My personal neighborhood in Eagle River is plowed and clean within a day or two at most. The streets around our walking only school on the east side would be a week or more before they were cleared. We have different needs than Anchorage.

Our communities of Eagle River, Chugiak, Birchwood, Peters Creek, and Eklutna are a community of interest. Why join with another district outside our communities? We are different and deserve our own representation, independence and self- governance.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 7, 2022, 10:00 pm

First Name: **William**

Last Name: **Sola**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Anchorage Senate District K
Options 4/7/22**

Public Comment: **Thanks to all for going back to the drawing board! Plan 2 looks great overall, and as a resident of Government Hill this makes a lot of sense to be a part of the downtown area, and JBER. As previously stated, being a part of North Eagle River and beyond would make no sense at all, so Plan 3B would be ill-advised and minimize any of our neighborhood's issues or needs.**

Thank you once again for allowing us to comment.

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5 *** Court Reporter not present for proceedings ***

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VIDEOCONFERENCE

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MEETING OF THE ALASKA REDISTRICTING BOARD

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Friday, April 8, 2022

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Anchorage Legislative Information Office

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1500 West Benson Boulevard

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Anchorage, Alaska 99503

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1 CHAIRMAN JOHN BINKLEY: Yeah. Let's do focus,
2 and let's not be condescending either to witnesses or to
3 each other.

4 So let's move on. Peter, who's next in the
5 queue?

6 EXECUTIVE DIRECTOR PETER TORKELOSON: We have
7 Katie Nolan, who is off-net. She's from Anchorage.
8 She's been in the queue.

9 MS. NOLAN: Hi.

10 CHAIRMAN JOHN BINKLEY: Katie?

11 MS. NOLAN: My name is Katie Nolan. Yes.

12 CHAIRMAN JOHN BINKLEY: Yeah. Please proceed.
13 Thank you.

14 MS. NOLAN: All right. I'm the president of
15 AHLOA, the Home and Landowners Association,
16 Incorporated, of the Anchorage Hillside. And for those
17 of you who don't know, we have been representing the
18 Anchorage Hillside since 1970, which was long before we
19 were incorporated into the municipality.

20 We created the Hillside District Plan, which is
21 a planning document for the Anchorage Hillside, and the
22 Anchorage Hillside now consists of the same areas that
23 we have been representing. They are now the community
24 councils in the area too, including Abbott Loop, Bear
25 Valley, Glen Alps, Hillside, Huffman/O'Malley and Rabbit

1 Creek Community Councils, but we were there before
2 everybody else, representing the Anchorage Hillside.
3 And we had our normal monthly meeting last night, and we
4 looked at these two maps, and I will tell you that
5 neither one of them is perfect, but the one that meets
6 the needs of the Anchorage Hillside is going to be
7 Map 2, not Map 3.

8 The idea that we are contiguous with
9 Eagle River ignores the fact that there's one of the
10 largest state parks in the nation between us, and
11 it -- it is faster to get from the Anchorage Hillside
12 to Whittier and the Kenai Peninsula than it is to get
13 to Eagle River Valley.

14 The challenge is, is that not just is this not
15 contiguous with no -- there are so few similarities
16 between the Anchorage Hillside and Eagle River. We
17 have different road systems. We have different
18 service -- they have their own parks department.
19 There are things that the State does with Eagle River
20 that are not appropriate for Anchorage and vice versa.

21 The biggest problem, though, that we saw with
22 it was that we like seeing our Juneau representatives
23 at our meetings whenever they're not in session. It's
24 virtually impossible for any of our representatives to
25 adequately represent an area that is so far away from

1 us. It's not fair to them. Trying to spend an hour
2 driving to a meeting in Copper River Valley and then
3 come back to a meeting on the Anchorage Hillside,
4 that's not going to work for anyone, which means we're
5 going to keep Zoom as an option, and Zoom and
6 one-dimensional people is not an option that's
7 (indiscernible) relationships with our
8 representatives.

9 Another thing that's -- that's important to
10 remember is that we have everything in common with
11 each other and we have had for over 50 years; we have
12 little in common and little interest in common with
13 Eagle River Valley, Eagle River, Chugiak, all those
14 areas.

15 The other thing that I've heard, listening to
16 testimony, is that for some reason we've got this
17 faulty belief that everybody on the Hillside is
18 wealthy, like everybody on the -- Eagle River is
19 wealthy. We have, sure, wealthy areas, just like
20 Eagle River does, but we also have very high-density
21 housing on our lower sections. We have workforce
22 housing throughout, just like Eagle River does, and to
23 think that we're all just, you know, these rich nabobs
24 is -- it's offensive. We're just people like
25 everywhere else in Anchorage.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 8, 2022, 6:38 pm

First Name: **Christopher**

Last Name: **Constant**

Group Affiliation, if applicable: **Anchorage Assembly**

Email or Phone Contact: **N/A**

Your ZIP Code: **Anchorage**

Issue of Concern (Please provide map name if applicable): **4/5/2022 ARB
Meeting Verbal Public Testimony**

Public Comment: **Christopher Constant expressed concern about the Senate pairing of Districts 23 and 24. Christopher lives in House District 23. To get to the main body of the district, he must drive 20-30 miles and drive through multiple communities to do so. This is the same for others in his community. The finger in the north is a prime concern.**

Christopher suggested the following:

- 1) Pair Districts 23 and 17 together, this would unite neighbors who live across the street**
- 2) Make minimal changes to boundaries that make the map unconstitutional**

Christopher described the reapportionment process in the Municipality of Anchorage. The city ran a robust public process with over 20 opportunities for public testimony, had a public portal to receive public comment, hired a contractor who proposed several maps and opened the mapmaking process to the public. The final map adopted was a map submitted by a member of the public. Two proposed maps paired Chugiak-Eagle River with Hillside Anchorage; this pairing resulted in a community uproar in overwhelming opposition.

The Anchorage Assembly listened to the community's feedback and Christopher expressed hope for the board to do the same, too, with the testimonies given by the public and resolutions written by community councils that opposing the pairing of Chugiak-Eagle River with South Anchorage. Christopher referenced several public comments and resolutions by community councils that were written expressing this opposition.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 8, 2022, 10:30 am

First Name: **Peter**

Last Name: **Courtnage**

Group Affiliation, if applicable:

Email or Phone Contact: 

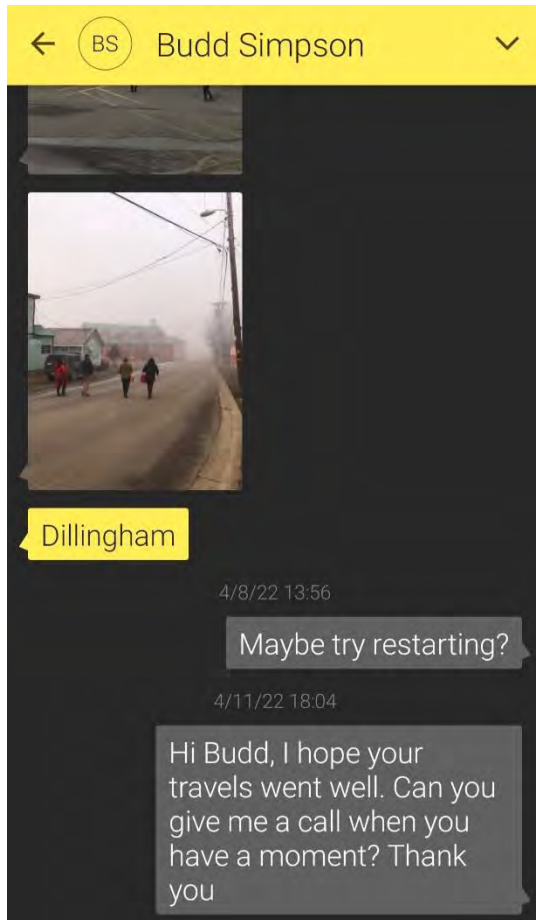
Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Redistricting options impacting Eagle River**

Public Comment: **I fully support/endorse option 2. Option 3b effectively dilutes my geographic representation and for that reason I oppose it.**

Marcum board member text messages March 25 – April 13

No search terms; all inclusive



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ALASKA REDISTRICTING BOARD

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BOARD MEETING

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APRIL 9, 2022

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15 Members Present:

16 John Binkley, Chair of the Board

17 Melanie Bahnke, Board Member

18 Nicole Borromeo, Board Member

19 Bethany Marcum, Board Member

20 Budd Simpson, Board Member

21 Peter Torkelson, Executive Director

22 Matt Singer, Legal Counsel

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1 That's 33 percent of the total population of Eagle
2 River community councils. The Eagle River Carrs,
3 Eagle River Fred Meyer, and Eagle River business
4 Boulevard are all in District 24. This is most
5 definitely a second Eagle River seat.

6 The claim that District 24 is a district of
7 JBER is -- is true, only in the most obscure academic
8 sense. District 24 includes a small portion of JBER,
9 but this portion of JBER has exactly zero population
10 except in precisely one census block.

11 And (indiscernible) put that up on the
12 screen. Awesome.

13 That -- that block appears to be noise from
14 the Census Bureau's anonymization efforts. This is
15 the block outlined in red. It is bounded by Eagle
16 River, the squiggly line on the upper right by the
17 Inlet above, and by Otter Lake down to the south.
18 That -- that block has a stated population of 197
19 people, but no physical infrastructure in which those
20 people might live.

21 Further anomalies in that block -- in the
22 data for that block include that the population is
23 100 percent adult and that it is 38.6 percent white
24 versus 74 percent adult and 59 percent white for the
25 rest of JBER.

1 In my map drawing of the Anchorage assembly
2 seats, I spotted several anomalous census blocks like
3 this in the Anchorage Bowl. The most obvious was a
4 block that covered the Hickel/Minnesota Parkway, what
5 name you want to apply to it, between International
6 Airport and Raspberry Roads. It is not a census
7 block that encompasses surrounding land, just the
8 road itself, yet it has a population of 19.

9 While state statute, Article 2,
10 Section 15.10.200(b) precludes you from adjusting
11 census numbers in your work does not preclude you
12 from putting the census numbers in context. The
13 context in this case is that District 24 is only a
14 JBER district inasmuch as it has a single census
15 block with a population of 197, which appears to be
16 anomalous. In all likelihood there will be no -- no
17 one living on JBER who will be able to provide the
18 state an address that places them in District 24.

19 I have heard that the District 23 and 24
20 pairing justified because Eagle River and Chugiak
21 have a strong military connection. Anecdotally, I
22 agree. I shoot a lot of houses -- a lot of homes
23 with military officers in Eagle River.

24 Also anecdotally, I shoot a lot of homes
25 with military families in Anchorage. On Thursday,

1 while you were hearing public testimony here, I shot
2 one of each. I currently have military tenants in my
3 duplex in Muldoon. I've had military tenants in my
4 three-plex in Sand Lake. Those people are all
5 represented where they live.

6 I have heard the concern that
7 demographically and socially JBER is more similar to
8 Chugiak/Eagle River than downtown. There are two
9 problems with this argument. First, it ignores the
10 7,200 residents of District 23 who live in downtown
11 and Muldoon. Those residents unequivocally have more
12 in common with downtown than Eagle River and Chugiak.
13 They live in houses that are smaller, on older blocks
14 that are smaller, older, on smaller lots. They are
15 on city water and sewer, city maintained roads.

16 The parts of downtown and Muldoon inside
17 District 23 are only 40 percent white, District 17 is
18 51 percent white, and District 24 is 73 percent
19 white. The downtown and Muldoon parts of District 23
20 are absolutely more similar to the population of
21 District 17 downtown than District 24.

22 The JBER part of District 23 is 59 percent
23 white. Again, 59 is closer to District 17's
24 51 percent white than District 24's 73 percent white.
25 As a whole, the district -- District 23 is 52 percent

1 anecdotes. The first one is I think one of the
2 discussions is -- is the -- in the communities of
3 interest, is how much people travel between them and
4 where you go shopping, et cetera.

5 I use -- I have history set on my Android
6 phone, so I went back and looked at the last four and
7 a half years of every single place I've been to. And
8 I notice in that four and a half years, I've been to
9 Eagle River exactly once. I think I went to Jitters
10 coffee shop, which is great and I should go again.
11 But, you know, to do shopping, one occasion Eagle
12 River.

13 In contrast, areas of South Anchorage I'm at
14 typically weekly, at least biweekly, and often more
15 than one time a week. So clearly, in terms of
16 connectivity. And I think that would be true for
17 probably most of -- most of my neighbors here in
18 Girdwood. South Anchorage is very closely aligned,
19 and Eagle River is a distant location that I rarely
20 go to unless there's some specific thing.

21 My second thought is I listened to some of
22 the -- some of the core case in front of Judge
23 Matthews, and I remember -- because Girdwood was
24 mentioned, I remember one interaction fairly clearly,
25 where there was discussion about continuity

1 would like to support option 2 and speak against
2 option 3B.

3 I'm a long-time resident of Girdwood.
4 Option 2 paired me with South Anchorage and the
5 Hillside, who are people who have similar lived
6 experiences and similar concerns to I, which allows
7 (indiscernible) to be fairly represented.

8 Option 3B paired me and Girdwood with people
9 who have very different concerns, who are
10 demographically very different than I and live a very
11 different experience.

12 For one example, Eagle River has
13 well-developed infrastructure, whereas Girdwood has
14 underdeveloped critical infrastructure, including
15 police and fire and emergency medical services.
16 Because Eagle River still outnumbers Girdwood,
17 option 3B leaves me unrepresented.

18 Considering other neighborhoods, option 2
19 also gives representation to East Anchorage and
20 maintains representation of Eagle River. Option 3B
21 seems to violate the Alaska Supreme Court ruling that
22 Eagle River should not be split, as this represented
23 partisan gerrymandering.

24 Option 3B map would give no representation
25 of my (indiscernible) at all, and this may damage my

1 town of Girdwood.

2 Thanks for hearing my comments.

3 CHAIR BINKLEY: Okay. Thank you.

4 My understanding is that Erik Steinfort is
5 also sharing a phone line, Margaret. Is he there, as
6 well?

7 MS. LEEDS: Yes. It's (indiscernible) his
8 office here.

9 MR. STEINFORT: Hi. Yeah, this is Erik
10 Steinfort. We are sharing a line.

11 CHAIR BINKLEY: You --

12 MR. STEINFORT: Thank you for acknowledging
13 me. Are you able to hear me?

14 CHAIR BINKLEY: Yes, we are, Erik. Please
15 go ahead.

16 MR. STEINFORT: That's great. Yeah, great
17 comments from other folks, like Margaret and Mike. I
18 appreciate their time putting in.

19 But, yeah, I just wanted to -- to testify
20 that I am in support of option 2 and against
21 option 3B. It seems really obvious to me what's
22 going on here. It's, like, oh, we've got an intent
23 to dilute Girdwood's voting representation, and I do
24 not support that. Sounds like you're making a lot of
25 reasons and special -- special ideas to try to tie

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Penny Goodstein [REDACTED]

Sat 4/9/2022 1:44 PM

I am writing about the redistricting decisions. I am appalled that once again, Eagle River has one plan to split it.

It seems that this is political to increase representation for Eagle River at the expense of other areas.

Eagle River is a unit. Muldoon is a unit. The Hillside is a unit. Please keep Downtown together, Hillside together, and Eagle River together. Do not separate these units.

JBEAR is no more similar to Eagle River than to downtown. Many at JBEAR are not Alaskan residents; they retain their home residency and vote there. Other JBEAR military live throughout our communities and these, if they become Alaskan residents, are represented by their home district elected officials. Putting JBEAR with an Eagle River district makes as much sense and with downtown.

Penny Goodstein

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 9, 2022, 9:27 pm

First Name: **Doug**

Last Name: **McBride**

Group Affiliation, if applicable:

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Senate District K Pairing**

Public Comment: **I am a resident of District 22, support Option 2 and vehemently oppose Option 3B.**

Prior to submitting this testimony, I reviewed all written testimony from the Recent April 7-8 packet to learn if there was any testimony in favor of Option 3B that would sway me. There is not a single point made or any evidence offered in any written testimony in support of Option 3B. Conversely, every written testimony in support of Option 2 provides some rationale for that position. The most compelling include: Districts 22 and 9 are not meaningfully or realistically adjacent; and Districts 22 and 24 comprise the actual and recognized community of Eagle River-Chugiak which are meaningfully and realistically adjacent.

In the absence of any provided rationale for Option 3B and the overwhelming rationale provided for Option 2, I strongly urge you to choose Option 2. To do otherwise (Option 3B) leaves this decision open to the same criticism of gerrymandering rendered by the recent Alaska Supreme Court ruling.

Thank you for considering my testimony.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 10, 2022, 12:38 pm

First Name: **Katie**

Last Name: **McBride**

Group Affiliation, if applicable:

Email or Phone Contact:



Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Map 3B**

Public Comment: **It makes no sense to group Eagle River with south Anchorage and Girdwood. To suggest that Eagle River is connected to Girdwood via Crow Pass is a stretch to say the least. Please adopt Map 2 of the redistricting maps.**

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ALASKA REDISTRICTING BOARD

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BOARD MEETING

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APRIL 13, 2022

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Anchorage Legislative Information Office

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1500 West Benson Boulevard

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Anchorage, Alaska

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17 **Members Present:**

18 **John Binkley, Chair of the Board (via Zoom)**

19 **Melanie Bahnke, Board Member**

20 **Nicole Borromeo, Board Member**

21 **Bethany Marcum, Board Member (via Zoom)**

22 **Budd Simpson, Board Member (via Zoom)**

23 **Peter Torkelson, Executive Director**

24 **Matt Singer, Legal Counsel**

25 **Jeanette Starr, Court Reporter**

1 So on the -- as far as the motion before us
2 on option No. 2, I personally find the pairing of 23
3 and 24, being the military with Chugiak, to be the
4 more compelling version or solution.

5 I think pairing the military bases with
6 downtown overlooks JBER as a significant community of
7 interest, and I think that, in itself, could expose
8 us to a constitutional challenge from that
9 constituency.

10 We heard a lot of testimony about
11 interactions between Eagle River, Chugiak, and JBER,
12 that that area has essentially developed as a bedroom
13 community for -- for the military families. They
14 send their kids to middle school and high school
15 there. I'm sure there are exceptions to that, but,
16 again, I felt the overall weight of that testimony
17 was compelling toward that pairing.

18 So I've -- I've heard the argument made
19 repeatedly that under the Court ruling Eagle
20 River/Chugiak has to be paired with Eagle River, but
21 that's actually not what the Court said. The
22 Court -- the Court decreed that the way Eagle River
23 was placed in the proclamation version was done at
24 the expense of Muldoon. "At the expense of Muldoon"
25 was the key to that part of the decision or the

1 same number of people. And when you -- whichever two
2 you pair for a Senate district, there's going to be
3 37 or -- 36 or 37,000 people in it, and they all get
4 a vote, and they're all going to have a senator and a
5 representative.

6 So the other point is that Districts 23 and
7 24 is a pairing that is already in place, and so
8 under option 3B, that isn't changed. So if there are
9 folks out there who have already thought about
10 running or not running or whatever, that stays in
11 place, and it's just one less thing to be changed.

12 So that brings us to the pairing of 22 and
13 9. There's been a lot of testimony and discussion
14 about that, again, on both -- both sides. When you
15 make the pairings that are described for JBER and
16 Eagle River, it leaves 22 as -- you know, with no
17 place else to go really except 9. And so that -- you
18 know, that just kind of flows naturally from that
19 other decision regarding 23 and 24.

20 So the House districts have been settled.
21 No one complained about those. The most discussion
22 in that has been about contiguity and the concept of
23 "as nearly as practicable" has been discussed.

24 The concept of nearly as practicable, I
25 think, has been misconstrued a lot of the time in

1 slow rolling to blow the June 1 deadline.

2 Thank you.

3 CHAIR BINKLEY: Okay. Thank you, Nicole.

4 Bethany, did you want to make a statement
5 about the motion before us?

6 MEMBER MARCUM: Yes. Thank you,
7 Mr. Chairman. I will make a statement about the
8 motion to support proposal 2.

9 So I'm very uncomfortable with proposal 2,
10 and that's primarily because it moves District 23,
11 JBER, from its current pairing with District 24 by
12 linking it with downtown, which is District 17.

13 Downtown has almost nothing in common with
14 the military base. It absolutely makes the least
15 sense of any possible pairing for District 23, JBER.

16 Downtown is the arts, right? It's tourism,
17 it's lots of professional services, and that is not
18 what makes up JBER. So I really fear that a
19 District 17 and District 23 pairing could be
20 viewed -- could be viewed as, like, an intentional
21 action to break up the military community.

22 The military, JBER, is absolutely a
23 community of interest, I think. And so I think that,
24 you know, choosing option 2, which would pair
25 District 17 with District 23, could be seen as an

1 looking at the House districts of -- or even the
2 Senate pairings of connecting that direction. But
3 that really wasn't an option that was presented to
4 us, and we really didn't have an opportunity. It was
5 just the two different pairings that we looked at,
6 two different options to vet that with the public.

7 I don't find it compelling, the idea of JBER
8 with downtown Anchorage. For 13 years I had an
9 office in downtown Anchorage with the Alaska Cruise
10 Association. I've owned a condo in that district,
11 still do. I've also been involved with the Alaska
12 Railroad for many, many years and have familiarity
13 with the railroad infrastructure in that area.

14 And in my experience the downtown area that
15 is part of District 17 is primarily defined by -- I
16 think, Bethany, you pointed out some of that --
17 professional service, attorneys, accountants, those
18 sorts of things. Tourism is very big in downtown
19 Anchorage.

20 The arts, of course we have the performing
21 arts center down in that area, shopping,
22 entertainment, all those sorts of things. And also
23 it has professional offices and professionals who
24 live close by in that area. There are also large
25 hotels down there, restaurants, convention centers,

1 all of the things that I mentioned, as well.

2 So I just don't see in my own experience an
3 enormous connection between those areas and the
4 military population on JBER, as opposed to the
5 military and JBER to the -- JBER to the military
6 bedroom communities to the north.

7 I understand that the Court has found
8 that -- Eagle River to be a community of interest,
9 but I think the testimony has also established very
10 clearly that the military community is also a
11 community of interest, and I don't believe that we
12 should be trading one community of interest for the
13 other.

14 Several citizens have told us about how
15 retired military in District 24 go to District 23 to
16 shop on base, to get medical services there. We
17 heard testimony that -- even from a former legislator
18 in that area that the Eagle River High School would
19 probably not even exist if it were not for the large
20 military community that helps populate that -- that
21 school.

22 So it seems to me that if a community of
23 interest means anything, that a large group of people
24 who, say, share the same employer, they serve the
25 same common purpose, fortunately for us, in defending

1 process.

2 So we've opted not to study the election
3 returns or the election data. That was a decision we
4 made together, so we have to take that testimony on
5 the face value, without really looking at the data
6 ourselves.

7 But if we are to take the Court's advice to
8 heart, I believe we have multiple options. I think
9 it is better to stay away from something that raises
10 such a concern, and that's the case that I would
11 state with 3B. I've not heard any criticism of
12 option 3B for pairing districts with drastically
13 different voting patterns together.

14 Ultimately, I found that both option 2, I
15 believe, and option 3 are valid approaches. I
16 respectfully disagree with the notion that one plan
17 is right and the other plan is wrong, or that for --
18 people who prefer one plan have good motives, and
19 maybe the people who prefer another plan have bad
20 motives.

21 I would rather think that it's a hard
22 choice. It's made all the more difficult by the
23 tremendous amount of very compelling and competing
24 information and testimony that we've received in the
25 last week or week and a half. And I -- I really

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 13, 2022, 12:59 pm

First Name: **Gene**

Last Name: **White**

Group Affiliation, if applicable:

Email or Phone Contact: 

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Compact representation**

Public Comment: **Please keep our representation in small compact areas. I live close to downtown Anchorage. All of downtown and Government Hill are a very small area and it makes only sense to keep it together in one district. Thank you.**

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE
3

4)
5 In the Matter of the)
6 2021 Redistricting Plan.)
7)
8)

Case No. 3AN-21-08869CI

9 **ALASKA REDISTRICTING BOARD’S RESPONSE**
10 **TO GIRDWOOD PLAINTIFFS’ MOTION TO INTERVENE**

11 The Girdwood Plaintiffs’ motion to intervene overcomplicates things. Pursuant
12 to Article VI, Section 11, “[a]ny qualified voter” may apply to the superior court to
13 challenge a redistricting plan. While the constitution does not expressly discuss the
14 process for challenges to revised plans that are amended after court remand, in the past
15 the superior court has treated new challenges as timely if filed within 30 days of the
16 amended plan or within a shortened period set by the court.¹
17

18 Because the Girdwood complaint is a timely challenge to a new senate district
19 contained in the April 13, 2022 Amended Proclamation Plan, the Alaska Redistricting
20 Board (the “Board”) recognizes that the Girdwood challenge to the new Senate District
21

22
23 ¹ See Alaska Civ. R. 90.8(b) (setting 30 day deadline from adoption of final redistricting
24 plan and proclamation of the Redistricting Board to serve application to compel correction of
25 an error in the redistricting plan). Cf. *In re 2001 Redistricting Cases*, 47 P.3d 1089, app.
26 (Alaska 2002) (setting out affirmed superior court opinion containing discussion of shortened
timeframe for filing challenges to amended plan based upon Article VI, Section 11 of the
Alaska Constitution’s directive that “this court [] expedite its redistricting decisions, affording
them priority over all other matters.”) (internal quotations omitted).

1 E is properly before the superior court and could not have been raised in the earlier
2 round of litigation. The presiding judge previously ordered all redistricting challenges
3 consolidated into one matter and appointed the Honorable Thomas Matthews to preside
4 over these matters.² The Girdwood legal challenge therefore properly should be
5 included in this consolidated case.³
6

7 The Girdwood motion to intervene seems an unnecessary additional procedural
8 step in light of the fact that the Girdwood complaint is a timely challenge that should
9 be consolidated into this case. There is likely no reason for this Court to conduct a Civil
10 Rule 24 analysis as to whether intervention is appropriate. Ultimately, the Board's
11 concern is that any and all timely legal challenges should be consolidated before this
12 Court and resolved without delay. The Board will be prepared at the April 26 hearing
13 to discuss a potential schedule for resolution of the Girdwood legal challenge, although
14 all parties should be mindful that additional legal challenges are still theoretically
15 possible within 30 days of the April 13, 2022 Amended Proclamation Plan, unless this
16 Court orders otherwise.
17
18
19

20 ///

21 ///

22
23 ² See Presiding Judges' Statewide Consolidation and Venue Order, dated Dec. 14, 2021.

24 ³ Paragraph 31 of the Girdwood Complaint makes a passing reference to the JBER house
25 district. To the degree that Girdwood intends to bring an equal protection challenge to Senate
26 District L which pairs JBER and North Eagle River, that senate district was deemed
constitutional in the prior litigation and any challenge to it is now time barred.

1 DATED at Anchorage, Alaska, this 26th day of April, 2022.

2 SCHWABE, WILLIAMSON & WYATT, P.C.
3 Attorneys for Alaska Redistricting Board

4
5 By: 

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10
11 CERTIFICATE OF SERVICE

12 I hereby certify that on the 26th day of April, 2022,
13 a true and correct copy of ALASKA REDISTRICTING BOARD'S
14 RESPONSE TO GIRDWOOD PLAINTIFFS' MOTION TO INTERVENE
(3 pages) was served upon the following by:

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26 Jeanine M. Huston, jhuston@schwabe.com 1:35pm

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Date: April 5, 2022, 5:51 pm

First Name: **Jody**

Last Name: **Sola**

Group Affiliation, if applicable: **Government Hill Community Council, president**

Email or Phone Contact: [REDACTED]

Your ZIP Code: **99501**

Issue of Concern (Please provide map name if applicable): **Please support the Bahnke redistricting map**

Public Comment: **First, thank you for your service, to our state and it's residents. I know you have given a tremendous amount of time, not only in meetings, but in "homework" as well. Know, also, that it does not go unnoticed.**

Your job is not an easy one, however, balancing the districts by sheer numbers alone does not give any of us "fair representation."

I am representing the Board of Directors from Government Hill. We are, respectively, asking you to support Melissa Bahnke's proposed changes to the redistricting map as it is the only one that makes sense for our residents. The South Chugiak area is rural Alaskan in distance, lifestyles, and values, and does not represent Government Hill, JBER, or downtown Anchorage. Please consider pairing house district 23 with 17.

Thank you again for the opportunity to speak up, and thank you for your consideration.

ADP RESOLUTION 2021-3



ANCHORAGE DOWNTOWN PARTNERSHIP, LTD.

A resolution of the Anchorage Downtown Partnership, Ltd. (ADP) Board of Directors expressing concern regarding the House District pairing between House District 23 (North Downtown) and House District 24 (Eagle River) for Senate District L.

Whereas, the United States Constitution empowers Congress to carry out the census every 10 years to count every person living in the United States and use that count to determine representation in Congress;

Whereas, the Alaska Constitution sets new boundaries for the Alaska house districts and senate districts after the decennial census of the United States;

Whereas, the Downtown Improvement District is currently represented by one House District and one Senate District;

Whereas, the final 2021 redistricting maps divide the Downtown Improvement District into two separate House seats;

Whereas, House District 17 includes the south side of 4th Avenue and stretches to Fireweed Lane;

Whereas, House District 23 includes the north side of 4th Avenue, Ship Creek, Government Hill and Joint Base Elmendorf and Richardson (JBER), and parts of Mountain View;

Whereas, House District 23 is paired with House District 24 to form Senate District L;

Whereas, House District 23 includes parts of the Central Business District, Downtown Improvement District, Port of Alaska and Alaska Railroad, JBER, and a commercial district of Mountain View;

Whereas, House District 24 includes Eagle River, which is predominately rural and residential;

Whereas, Downtown Anchorage has unique and specific issues as the urban core of our community is separate from rural and residential areas;

NOW, THEREFORE, RECOGNIZING THAT DOWNTOWN ANCHORAGE IS UNIQUE WITHIN THE MUNICIPALITY OF ANCHORAGE AND THE STATE OF ALASKA AS A STRONG URBAN CORE AND SHOULD HAVE COMPACT AND COHESIVE REPRESENTATION AS SUCH THE ANCHORAGE DOWNTOWN PARTNERSHIP, LTD, BOARD OF DIRECTORS RESOLVES:

SECTION 1: ADP will work to find ways to advocate for compact and cohesive maps to best reflect the interest of downtown.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

My name is Andrew Gray, and I speak for myself only; I do not represent my employers in any way. I live in new house district 19 in Anchorage. My family moved into our home there in 2019 just two weeks before I deployed with the Alaska Army National Guard for 10 months, so I have a relationship with the military and with JBER and that's the bulk of what I will be testifying about. While on that deployment, I was having lunch with some enlisted soldiers in the dining facility, and I asked one where he had grown up. He said the trailer park across from the Northway Mall here in Anchorage. I remarked that I had never met anyone who had grown up in a trailer park, and after a pause all 4 enlisted soldiers I was seated with explained that they too had spent at least part of their childhoods in trailer parks.

I tell this story to illustrate a fact about the US military. Many young people who sign up to serve in the military do so to escape the poverty of their childhoods. You see, I as someone unfamiliar with trailer park living, was the anomaly; those with firsthand knowledge of it were the majority. "Three hots and a cot" is a popular saying describing the promise of food and shelter which for many 18-year-olds would not be a given without the military's help. A 2018 demographic analysis by the Council on Foreign Relations showed that over 60 percent of enlistments came from neighborhoods with a median household income between \$38,345 and \$80,912. 19% of recruits came from households with an income of less than \$38,000 a year.[i] The average annual household income in Eagle River is \$126,943, while the median household income sits at \$111,388 per year.[ii] This means more than 80% of military recruits come from households unlike those in Eagle River. And if lower enlisted choose to live off base, they inevitably end up in lower-cost housing in Mountain View, north Muldoon, or even in my neighborhood in midtown.

And yet members of this board are insisting on pairing Eagle River with JBER.

What military members can afford to live in Eagle River? Higher ranking officers. The Congressional Research Service reports that 63% of enlisted service members are white; 37% non-white;[iii] JBER is actually even more diverse with 60.7% of the voting age population identifying as white; and just under 40% identifying as non-white. However, 88% of senior military officers are white, and it is these higher ranking officers who can afford to live in Eagle River. I should point out that the voting age population in Chugiak Eagle River is over 75% white.[iv] In recent litigation that made its way to the Alaska Supreme Court this Redistricting Board was found guilty of an unconstitutional gerrymander for creating a Senate district pairing an Eagle River House District with an East Anchorage house district. You may remember that case from a few weeks ago. I would argue that a Senate District pairing Eagle River with JBER is just as egregiously unconstitutional if not more so. The poor minority voices of JBER will be overridden by the rich white residents of Eagle River.

And that is what the goal is here: to increase the Senate representation of Eagle River. As Board Member Bethany Marcum so eloquently stated on the record, on November 5, 2021: "This actually gives Eagle River the opportunity to have more representation."

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Why? Why would anyone want Eagle River of all places to have “more representation?” Well, the Chugiak Eagle River area has been a conservative stronghold since prior to Alaska Statehood. In fact, the area is so conservative that they actually opposed statehood in the 1950s. So if there were a way to increase their representation, one could enshrine a conservative advantage in the makeup of the Alaska Senate for the next ten years.

Yesterday Chairman Binkley explained to a testifier that she couldn’t compare Anchorage reapportionment of Assembly Districts with Alaska Redistricting, that these were two completely different processes. Although the processes may be different, the conservative objective is the same: increase Eagle River’s representation. During Anchorage reapportionment, Eagle River was guaranteed from the start two assembly members. So in that case in order to increase representation, the tactic was to minimize the population represented by those two Eagle River Assembly members. This was achieved by fierce testimony against pairing Eagle River with any other part of Anchorage. The option most strongly considered was a pairing of Chugiak-Eagle River with Hillside in South Anchorage. I would like to quote some of that testimony from a Town Hall held on January 27, 2022. Eagle River Assembly Member and current unopposed candidate for state house Jamie Allard said: “It was brought up the fact that if we are connected to Hillside or we are connected to Girdwood, you would literally have to ride a Dall sheep in order to get to those areas, unless we drove approximately from our location almost an hour . . . to get to hillside and an hour and a half to get down to Girdwood. I would also point out that when folks are saying that we have things in common over there, look at who their elected officials are: Suzanne LaFrance and John Weddleton, wonderful people, but you have to still ask what do we have in common with those areas? we don’t.”

Although I personally disagree with Ms. Allard’s assessment that the only means of direct transport between these two districts is the riding of Dall sheep, I want to thank her for explicitly stating that this is a political process. And although the method is different here in redistricting, the goal is not.

By avoiding pairing the two Eagle River house districts with each other -- which by any metric is how you would create the most compact, contiguous, socio-economically integrated Senate district -- the Redistricting Board is seeking to expand Eagle River’s influence on the Alaska Senate. We know from numerous studies that voter participation increases with family income. In the 2016 presidential election, 48% of voters in the lowest income category voted, while almost double that, a whopping 86% of voters in the highest income category cast a ballot.[v] This trend holds true for Eagle River. Eagle River consistently participates in elections at a significantly higher rate than their lower income neighbors. So, if Eagle River gets two senators, you can bet it will be Eagle River electing those senators, not the JBER house district nor the South Anchorage House District. We will get Two Lora Reinholds; not two Bill Wielechowskis.

ALASKA REDISTRICTING BOARD WEBSITE RESPONSE

Please allow me to again quote Bethany Marcum: “This actually gives Eagle River the opportunity to have more representation.” She is absolutely right, and that’s why this plan is absolutely wrong. Giving Eagle River extra representation is unconstitutional and should not be allowed.

So why is this board continuing with this ill-intentioned plan? Because there are no adverse consequences to the board adopting another unconstitutional gerrymander. There is only upside: There’s a chance that no lawsuit will be brought forth and therefore the gerrymander will stand for the next ten years. Alternatively, litigation could be pursued, but it will take time. Even on an expedited schedule, it would take several months after an appeal to the Alaska Supreme court before you are sent back here to rework the senate pairings, and by then the November election would be approaching and it might be too close to print new ballots.

No one on this board will be held personally liable for unconstitutional pairings, so what have you got to lose? Nothing. What have you got to gain? Continued Republican control of the Alaska Senate.

With that knowledge I know I make my plea in vain, but nevertheless, I ask all five of you to please oppose the senate pairings in map 3B; please support the senate pairings in map Option 2, which keeps like parts together: Eagle River with Eagle River; South Anchorage with South Anchorage; and JBER with Downtown.

Thank you for allowing me to testify, and thank you for your service to the state of Alaska

[i] <https://www.brookings.edu/blog/order-from-chaos/2018/11/29/how-the-u-s-military-became-the-exception-to-americas-wage-stagnation-problem/>

[ii] <https://www.point2homes.com/US/Neighborhood/AK/Eagle-River-Demographics.html>

[iii] <https://www.usatoday.com/in-depth/news/politics/2020/09/01/military-diversity-army-shows-few-black-officers-top-leadership/3377371001/>

[iv] <https://www.census.gov/quickfacts/fact/table/AK/RHI125220>

[v] <https://econofact.org/voting-and-income>